3017.

SUPREME COURT OF THE UNITED STATES.

No. 85.

WILLIAM A. SMITH, ALEX. L. P. GREEN, CHARLES B. PARSONS & AL., COMPLAINANTS,

vs.

GEORGE LANE, LEVI SCOTT, & AL.

ON A CERTIFICATE OF DIVISION IN OPINION BETWEEN THE JUDGES OF THE CIRCUIT COURT, U. S., FOR THE SOUTHERN DISTRICT OF NEW YORK.

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GIDEON, print.

At a stated term of the circuit court of the United States, for the southern district of New York, in the second circuit, held by adjournment at the city of New York on the twenty-seventh day of September, in the year of our Lord one thousand eight hundred and fifty-two.

Present, the honorable Samuel Nelson, associate justice of the Supreme Court of the United States, and the honorable Samuel R. Betts, district judge.

WILLIAM A. SMITH, ALEXANDER L. P. GREEN, Charles B. Parsons, and others, complainants,
and
GEORGE LANE, LEVI SCOTT, and others, defendantss.

This cause having been brought on to be heard, on exceptions taken by the complainants to the report of the clerk bearing date .

And upon the equity reserved in the decretal order, made in this cause on the sixth day of November, A. D. 1851; and the pleadings having been read, with the decretal order, the clerk's report, with the evidence taken and certified by him, and the exceptions filed thereto by the complainants. And the same being argued on behalf of the complainants by Mr. D. Lord, and on behalf of the defendants by Mr. E. L. Fancher, and the court having considered the premises, the judges thereof were opposed in opinion, upon the following points and questions, material to the further directions to be given in this cause, and to the allowance of the said exceptions, that is to say:

First point. Whether the number of the beneficiaries to be regarded and taken under the said decree, to be the basis of the appointment between the parties, should be taken from the minutes of the year 1844 (as claimed by the defendants) or of the year 1845 (as claimed by the complainants.)

Second point. Whether the plaintiffs are entitled to have the proportionate interests of themselve and of those whom they represent, ascertained on the basis of the property and assets as the same should be justly valued, as of the period of the division of the Methodist Episcopal Church, and the organization of the Methodist Episcopal Church South, in May, A. D. 1845, declared in the said decretal order (as claimed by the complainants) or not. Or

Third point. Whether the mutual interests in said property and assets of the respective parties was a continuing interest in common, up to the rendition of the said decretal order of 26th November, 1851, which determined the proportionate rights of the respective parties in said property and assets (as claimed by the defendants) or not.

Fourth point. Whether the complainants are to have an allowance yearly, at the usual rate of interest on their share of the said property, by way of annuity and interest on each annual annuity until their

claims should be finally satisfied (as claimed by the complainants;) or whether they should be allowed annual dividends to be paid in cash at the rate of each yearly dividends, as were made to theb eneficiaries represented by the defendants with interest on each annual dividend in cash, up to the time of the payment thereof; and after deducting such dividends and interest (as the dividends of the northern beneficiaries were deducted) should share the balance of the property and assets or capital of the Book Concern as they should be at the time when the division of such property and assets should take place (as claimed by the defendants.)

Fifth point. Whether the complainants shall be decreed to be paid in money, according to their interests, as they shall be found, and according to the valuations which shall be ascertained and adopted in taking the account (as was claimed by the complainants) or not.

Sixth point. Or whether partition or division of the capital or balance of the property and assets between the parties, according to their proportionate rights, should be decreed, and in case a partition thereof cannot be properly made, by or under the decree of the court or mutual assent of the parties, then whether a sale of such capital or balance of property and assets shall be decreed by the court, and distribution of the proceeds hereof ordered between the parties, according to their proportional rights (as claimed by the defendants) or not.

Upon which points the judges being opposed in their opinions, it was thereupon, on motion of the counsels of the respective parties, ordered, that the pleadings, clerk's report with the evidence therewith, and the exceptions of the complainants, with the questions and points aforesaid, which have been stated as aforesaid, by the judges at the request of the parties, and which have thus arisen, be certified under the seal of this court, to the Supreme Court of the United States at their session next to be held, there to be finally decided according to law.

I, John W. Nelson, clerk of the circuit court of the United
[L. S.] States, for the southern district of New York, do certify, that the following are true copies of papers on file in this office.

Witness my hand and seal, this fourth day of March, eighteen hundred and fifty-three. JOHN W. NELSON, *Clerk.*

UNITED STATES OF AMERICA,
Circuit court, southern dist. of New York.

To the honorable the judges of the circuit court of the United States, for the southern district of New York, next to be holden at the city of New York, on the first Monday in April next.

The bill of complaint of Henry B. Bascom, a citizen of Lexington, in the State of Kentucky; Alexander L. P. Green, a citizen of Nashville, in the State of Tennessee; Charles B. Parsons, a citizen of Louisville, in the State of Kentucky; John Kelly, a citizen of Wilson county, in the State of Tennessee; James W. Allen, a citizen of Limestone county, in the State of Alabama; and John Tevis, a citizen of Shelby

county, in the State of Kentucky; against George Lane, Levi Scott, George Peck, and Nathan Bangs, citizens of the city of New York, in the State of New York.

Humbly complaining, the complainants state and show to your honorable court, that before and on the 8th day of June, 1844, there existed in the United States of America a voluntary association, known as the Methodist Episcopal Church in the United States of America, not incorporated by any legal enactment, but composed of seven bishops, four thousand eight hundred and twenty-eight preachers belonging to the travelling connexion, and in bishops, ministers, and membership, about one million one hundred and nine thousand nine hundred and sixty, then being in the United States and territories of the United States, united and holden together in one organized body by certain doctrines of faith and morals, and by certain rules of government and discipline.

That the general government of the Methodist Episcopal Church was vested in one general body, called the General Conference, and in certain subordinate bodies, called Annual Conferences, and in bishops, and travelling ministers, and preachers; and the great object of the said Methodist Episcopal Church was the diffusion of the principles of the Saviour of mankind—good morals, pure religion, piety, and holiness—among the people of the world. And the complainants allege, that the constitution, organization, form of government, and rules of discipline, as well as the articles of religion and doctrines of faith of the Methodist Episcopal Church, were of general knowledge and notoriety; nevertheless, for the more particular information of the court, they refer to a printed volume, which will be produced on the trial of the cause, entitled "The Doctrines and Discipline of the Methodist Episcopal Church."

And the complainants allege, that differences and disagreements having sprung up in the church, between what was called by the church the Northern and Southern members, upon the administration of the church government, with reference to the ownership of slaves by the ministers of the church, of such a character, and attended with such consequences, as threatened fearfully to impair the usefulness of the church, as well as permanently to disturb its harmony; and became, and was, with the members of the church, a question of very grave and serious importance, whether a separation ought not to take place by some geographical boundary, with necessary and proper exceptions, so as that the Methodist Episcopal Church should thereafter constitute two separate and distinct Methodist Episcopal Churches.

And thereupon the complainants allege, that, at a General Conference of the church, holden, according to usage and discipline, at New York, on the 8th day of June, 1844, the following resolutions were duly and legally, and by a majority of over three-fourths of the entire body, passed; which resolutions are herewith copied, and prayed to be taken as part of this bill, which are in the words and figures, to wit:

"Resolved, by the delegates of the several Annual Conferences, in General Conference assembled—

"1. That, should the Annual Conferences in the slaveholding States find it necesssary to unite in a distinct ecclesiastical connexion, the following rule shall be observed with regard to the northern boundary of such connexion: All the societies, stations, and conferences adhering to the church in the South, by a vote of a majority of the members of said societies, stations, and conferences, shall remain under the unmolested pastoral care of the Southern Church; and the ministers of the Methodist Episcopal Church shall, in no wise, attempt to organize churches or societies within the limits of the Church South, nor shall they attempt to exercise any pastoral oversight therein; it being understood, that the ministry of the South reciprocally observe the same rule in relation to stations, societies, and conferences adhering, by vote of a majority, to the Methodist Episcopal Church: Provided, also, that this rule shall apply only to societies, stations, and conferences, bordering on the line of division, and not to interior charges, which shall, in all cases, be left to the care of that church within whose territory they are situated.

"2. That ministers, local and travelling, of every grade and office, in the Methodist Episcopal Church, may, as they prefer, remain in that church, or without blame attach themselves to the Church South.

"3. Resolved, by the delegates of all the Annual Conferences, in General Conference assembled, That we recommend to all the Annual Conferences, at their first approaching sessions, to authorize a change of the sixth restrictive article, so that the first clause shall read thus: 'They shall not appropriate the produce of the Book Concern, nor of the Chartered Fund, to any other purpose other than for the benefit of the travelling, supernumerary, superannuated, and worn out preachers, their wives, widows, and children, and to such other purposes as may be determined upon by a vote of two-thirds of the members of the General Conference.'

"4. That whenever the General Conferences, by a vote of three-fourths of all their members voting on the third resolution, shall have concurred in the recommendation to alter the sixth restrictive article, the agents at New York and Cincinnati shall, and they are hereby, authorized and directed to deliver over to any authorized agent, or appointee of the Church South, should one be organized, all notes and book accounts against the ministers, church members, or citizens, within its boundaries, with authority to collect the same for the sole use of the Southern Church; and that said agents also convey to aforesaid agent or appointee of the South, all the real estate, and assign to him all the property, including presses, stock, and all right and interest connected with the printing establishments at Charleston, Richmond, and Nashville, which now belong to the Methodist Episcopal Church.

"5. That when the Annual Conferences shall have approved the aforesaid change in the sixth restrictive article, there shall be transferred to the above agent for the Southern Church, so much of the capital

and produce of the Methodist Book Concern as will, with the notes, book accounts, presses, &c., mentioned in the last resolution, bear the same proportion to the whole property of said concern, that the travelling preachers in the Southern Church shall bear to all the travelling ministers of the Methodist Episcopal Church; the division to be made on the basis of the number of travelling preachers in the forthcoming minutes.

"6. That the above transfer shall be in the form of annual payments of $25,000 per annum, and specifically in stock of the Book Concern, and in southern notes and accounts due the establishment, and accruing after the first transfer mentioned above; and, until the payments are made, the Southern Church shall share in all the nett profits of the Book Concern, in the proportion that the amount due them, or in arrears, bears to all the property of the concern.

"7. That Nathan Bangs, George Peck, and James B. Finley, be, and they are hereby, appointed commissioners, to act in concert with the same number of commissioners appointed by the Southern organization, (should one be formed,) to estimate the amount which will fall due to the South by the preceding rule, and to have full powers to carry into effect the whole arrangements proposed with regard to the division of property, should the separation take place. And if by any means a vacancy occurs in this Board of Commissioners, the Book Committee at New York shall fill said vacancy.

"8. That whenever agents of the Southern Church are clothed with legal authority or corporate power to act in the premises, the agents at New York are hereby authorized and directed to act in concert with said Southern agents, so as to give the provisions of these resolutions a legally binding force.

"9. That all the property of the Methodist Episcopal Church, in meeting-houses, parsonages, colleges, schools, conference funds, cemeteries, and of every kind, within the limits of the Southern organization, shall be forever free from any claim set up on the part of the Methodist Episcopal Church, so far as this resolution can be of force in the premises.

"10. That the church, so formed in the South, shall have a common right to use all the copyrights in possession of the Book Concerns at New York and Cincinnati, at the time of the settlement by the commissioners.

"11. That the Book agents at New York be directed to make such compensation to the Conferences South, for their dividend from the Chartered Fund, as the commissioners above provided for shall agree upon.

"12. That the Bishops be respectfully requested to lay that part of this report, requiring the action of the Annual Conferences, before them as soon as possible, beginning with the New York Conference."

And the complainants allege, that the said General Conference had full, competent, and lawful power and authority, to pass and adopt the

said resolutions, and each and all of them, and that the same thereby became, and were, of binding force and validity.

And the complainants further allege, that after the adoption of the foregoing resolutions, such proceedings were had in the several Annual Conferences of the Methodist Episcopal Church in the slaveholding States, that a full convention thereof, by delegates, elected on the basis of the resolutions of the General Conference of 1844, assemble at Louisville, in Kentucky, on the first day of May, 1845; and the said convention, after full and mature consideration, adopted the following resolutions, which they pray may be taken as part of this bill:

"Be it resolved, by the delegates of the several Annual Conferences of the Methodist Episcopal Church in the slaveholding States, in General Convention assembled, That it is right, expedient, and necessary to erect the Annual Conferences represented in this convention into a distinct ecclesiastical connexion, separate from the jurisdiction of the General Conference of the Methodist Episcopal Church, as at present constituted; and accordingly we, the delegates of the said Annual Conferences, acting under the provisional plan of separation adopted by the General Conference of 1844, do solemnly declare the jurisdiction hitherto exercised over said Annual Conferences, by the General Conference of the Methodist Episcopal Church, entirely dissolved; and that said Annual Conferences shall be, and they hereby are, constituted a separate ecclesiastical connexion, under the Provisional Plan of Separation aforesaid, and based upon the Discipline of the Methodist Episcopal Church, comprehending the doctrines and entire moral, ecclesiastical, and economical rules and regulations of said Discipline, except only in so far as verbal alterations may be necessary to a distinct organization, and to be known by the style and title of the Methodist Episcopal Church South."

"Resolved, That we cannot abandon or compromise the principles of action upon which we proceed to a separate organization in the South; nevertheless, cherishing a sincere desire to maintain Christian union and fraternal intercourse with the Church North, we shall always be ready kindly and respectfully to entertain, and duly and carefully consider, any proposition or plan having for its object the union of the two great bodies in the North and South, whether such proposed union be jurisdictional or connectional."

And the complainants further allege that afterwards, viz., on the second day of July, anno Domini 1845, a council of the Bishops of the Methodist Episcopal Church met at New York, (which council was composed of the northern Bishops alone) and then and there unanimously adopted the following resolutions, which they pray may be taken as part of this bill:

"Resolved, That the plan reported by the select committee of nine, at the last General Conference, and adopted by that body, in regard to a distinct ecclesiastical connexion, should such a course be found necessary by the Annual Conferences in the slaveholding States, is re-

garded by us as of binding obligation in the premises, so far as our administration is concerned.

"Resolved, That in order to ascertain fairly the desire and purpose of those societies bordering on the line of division, in regard to their adherence to the Church North or South, due notice should be given of the time, place, and object of the meeting for the above purpose, at which a chairman and secretary should be appointed, and the sense of all the members present be ascertained, and the same be forwarded to the Bishop who may preside at the ensuing Annual Conferences; or forward to said presiding Bishop a written request to be recognised and have a preacher sent them, with the names of the majority appended thereto."

And the complainants allege, that by and in virtue of the foregoing proceedings, the Methodist Episcopal Church in the United States, as it had existed before the year 1844, became and was divided into two distinct Methodist Episcopal Churches, with distinct and independent powers and authority, composed of the several Annual Conferences, charges, stations, and societies, lying and being situated north and south of the afore described line of division.

And the complainants further allege, that by force of the foregoing proceedings, the Methodist Episcopal Church South became and was entitled to its proportion of all the property, real and personal, and all funds and effects, (said property and funds of the Methodist Episcopal Church had been obtained and collected by voluntary contribution, in which contribution the members of the Church South contributed the largest portion of the same,) which, up to the time of the separation, had belonged to the Methodist Episcopal Church in the United States, and that the Methodist Episcopal Church South was and is so entitled, without any change or alteration of the sixth restrictive article above mentioned; but the complainants allege, that if the change in the sixth restrictive article were necessary, in order that the Church South should obtain an equitable division of the church property, a majority of three-fourths of all the members of the several Annual Conferences which voted directly on the question, in view of a division of the property, has been obtained.

And the complainants further say, that before and on the said eighth day of June, 1844, the Methodist Episcopal Church in the United States owned and possessed large amounts of property in various parts of the United States, in addition to the meeting houses, parsonages, and other estates of that description; and that said property, real and personal, was in the hands of the agents and trustees, being, in some instances, corporations, but more frequently in private and unincorporated individuals; that among other descriptions and claims of property there belonged to the said church what was denominated the "Book Concern," in the city of New York, consisting of houses, lots, machinery, printing presses, book bindery, books, paper, debts, cash, and other articles of property, amounting in all to about the sum of seven hundred thousand dollars; the whole of which lands and goods, pro-

perty and effects so situated, are now in the possession of the defendants Lane and Scott, denominated hereinafter as book agents.

And the complainants further say, that after the separation of the Methodist Episcopal Church into two distinct churches, by virtue of the resolutions of the General Conference of 1844, and the action of the Annual Conferences in the South, as herein before set forth, the agents of the Book Concern at New York, in pursuance of the provisions and terms of said resolutions, paid to the several Annual Conferences of the Methodist Episcopal Church South their proportion of profits and income of the Book Concern, as fixed and set apart by the said agents for the year 1845. But the complainants further allege, that since the year 1845 the said agents have utterly refused to pay to the said Annual Conferences South, and to complainants for and on behalf of them, their said just proportions of the profits and income of the said Book Concern, and still continue to withhold the same, to the manifest loss and injury of the said Church South, and in plain violation of their rights. And the complainants further say, that the General Conference of the Church South, holden at Petersburg, Virginia, on the day of May, 1846, in pursuance of, and in compliance with, the aforesaid resolutions of the General Conference of 1844, proceeded to appoint the complainants, Bascom and Green, together with S. A. Latta, commissioners to meet the commissioners appointed by the General Conference of the Methodist Episcopal Church of 1844, and settle and receive from said commissioners the just proportion of the property and effects due the South, according to the Plan of Separation; which resolutions are in the words and figures following, to wit, and prayed to be taken as part of this bill:

"1. Resolved, by the delegates of the several Annual Conferences of the Methodist Episcopal Church South, in General Conference assembled, That three commissioners be appointed, in accordance with the 'Plan of Separation' adopted by the General Conference of the Methodist Episcopal Church in 1844, to act in concert with the commissioners appointed by the said Methodist Episcopal Church, to estimate the amount due to the South, according to the aforesaid 'Plan of Separation,' and to adjust and settle all matters pertaining to the division of the church property and funds, as provided for in the said 'Plan of Separation,' with full powers to carry into effect the whole arrangement with regard to said division.

"2. Resolved, That the commissioners of the Methodist Episcopal Church South shall forthwith notify the commissioners and book agents of the Methodist Episcopal Church of their appointment as aforesaid, and of their readiness to adjust and settle the matters aforesaid; and should no such settlement be effected before the session of the General Conference of the Methodist Episcopal Church in 1848, said commissioners shall have power and authority, for and in behalf of this conference, to attend the General Conference of the Methodist Episcopal Church, to settle and adjust all questions involving property

or funds, which may be pending between the Methodist Episcopal Church and the Methodist Episcopal Church South.

"3. Resolved, That should the commissioners appointed by this General Conference, after proper effort, fail to effect a settlement as above, then, and in that case, they shall be, and they are hereby, authorized to take such measures as may best secure the just and equitable claims of the Methodist Episcopal Church South to the property and funds aforesaid."

And thereupon, and under the authority of said last recited resolutions, the said Bascom, Green, and Latta were duly appointed such commissioners, and their said appointment duly certified and made known to the commissioners appointed by the said resolutions of the General Conference of 1844. And the said complainants further say, that the said Bascom, Green, and Latta, immediately after their said appointments as such commissioners as aforesaid, applied to Nathan Bangs, George Peck, and James B. Finley, commissioners appointed by the seventh resolution of the said General Conference of 1844, and the said book agents at New York, to act in concert with the commissioners appointed upon the part of the South to settle and divide the property belonging to the Methodist Episcopal Church between the Church North and the Church South, and requested them to proceed to the duty assigned them, by dividing the property, as contemplated and directed by said resolution; and that they, the complainants, Bascom and Green, together with the said Latta, have repeatedly called on them since for this purpose; but the defendants have wholly failed and refused to act in the premises; and complainants have not been enabled, although they have used all honorable and fair means, to get a settlement with them of this unpleasant question; nor have they been enabled to induce the said book agents of the Methodist Episcopal Church, nor the church itself, nor the commissioners, to pay to the Church South its proportionate share of said property and funds, as provided by said Plan of Separation.

The complainants further show, that since the appointment of the said Samuel A. Latta as one of the commissioners by the General Conference of the Methodist Episcopal Church South, say on the day of February, 1849, he, the said Latta, hath resigned his office as such commissioner; and that they, the said Bascom and Green, by virtue of, and under the authority of, the said General Conference of the Methodist Episcopal Church South, have appointed their co-complainant, Parsons, to fill the vacancy of said Latta.

And the complainants allege that they are members of the Methodist Episcopal Church South; that they are preachers—Kelly and Allen are supernumerary, and Tevis superannuated, preachers—and belong to the travelling connexion of said Church South; and that, as such, they have a personal interest in the real estate, personal property, debts, and funds now holden by the Methodist Episcopal Church, through the said defendants, as agents and trustees, appointed by the General Conference of the Methodist Episcopal Church. Complainants fur-

ther allege, that there are about fifteen hundred preachers belonging to the travelling connexion of the Methodist Episcopal Church South, each of whom has a direct and personal interest in the same right with your complainants to said property, as above described, situated, and held as aforesaid. That the great number of persons interested as aforesaid in the recovery sought by this bill, makes it inconvenient, indeed impossible, to bring them all before the court as complainants. That they are citizens of other States than the State of New York, and their interest in the property in question exceeds two thousand dollars.

Complainants further allege, that the defendants are members of the Methodist Episcopal Church, are preachers belonging to the travelling connexion of that Church, and that each of them has a personal interest in the said property and funds, as above described. In addition to which, the said defendants, Lane and Scott, have the custody and control by law, and, by virtue of their appointment as agents of the Book Concern, by the General Conference of the Methodist Episcopal Church, of all the said property and effects of said Book Concern above described. That in addition to these defendants, there are nearly thirty-eight hundred preachers belonging to the travelling connexion of the Methodist Episcopal Church, each of whom has an interest in the said property in the same right, so that it will be impossible, in view of attaining a just decision of this controversy, to make all those interested parties to this bill.

Complainants further allege, that the entire membership of the Methodist Episcopal Church South is about four hundred and sixty thousand five hundred and fifty-three, and that the entire membership of the Methodist Episcopal Church is about six hundred and thirty-nine thousand and sixty-six; so that it will be at once seen by the honorable court that it is utterly impracticable and impossible to bring all the parties in interest before the court in this bill, either as complainants or as defendants.

And the complainants further say, that they bring this bill by the authority and under the direction of the General and the Annual Conferences of the Methodist Episcopal Church South, and for the benefit and in behalf of the said Church South, and the said General Conference, and for the benefit and in behalf of all the annual conferences in the said Church South, and of themselves, and of all the preachers in the travelling connexion, and all other ministers and members of said church, and all others having interest in the same right in its funds and property.

To the end, therefore, and forasmuch as complainants, and those they represent, are greatly aggrieved and injured by the oppressive course pursued by the Methodist Episcopal Church, in their refusal to divide the said property according to equity, and in pursuance of the Plan of Separation so as aforesaid set forth, and that complainants, so as aforesaid, are without relief, except in a court of equity, they pray your honorable court that they may be allowed to prosecute this bill

in their own behalf, and in behalf of all those bodies and persons so interested belonging to the Church South, as above set forth; and that said defendants, by suitable process, directed, &c., commanding, &c., be made defendants to this bill, for themselves and those they represent as agents, trustees, and commissioners; and that upon oath they make full, true, and perfect answers to each allegation in this bill contained, setting forth their own rights, and the rights of those under whom they now act, and have heretofore acted, to the end that this honorable court may be enabled to ascertain the rights of all the parties, and decree accordingly.

And the complainants particularly pray that defendants, Lane and Scott, may be required to produce a full, particular, and just account of all the real estate, personal estate, goods, debts, money, and effects, of every sort or kind, now held by them, or either of them, as agent or agents, trustees, or members of the Methodist Episcopal Church in the United States; and that the said Bangs, Peck, and Finley be required to answer, upon oath, whether they were not appointed by the General Conference of the Methodist Episcopal Church of 1844, held at New York, commissioners to act upon the part of the North with the commissioners to be appointed on the part of the South, in case of a separate and distinct ecclesiastical connexion being formed by the South, in the division of the church property, so called; and whether the complainants, Bascom, Green, and Parsons, and the said Samuel A. Latta, as commissioners, did not call upon them for a settlement, and to arrange the distribution of the church property according to the Plan of Separation; and if they did not refuse so to act in the settlement and division of said church property; and that they, all the said defendants, also be made to answer all and singular the allegations and matters in this bill set forth, as fully as though the same were repeated to them in the form of interrogatories, and they especially interrogated thereto.

And upon the hearing of the cause, complainants pray that an account of all the property, real, personal, and mixed, and moneys, be ordered and taken, and the amount thereby ascertained, and that it be declared what complainants are entitled to under the said Plan of Separation, or otherwise. And upon the final hearing of the cause, may it please your honorable court to decree that the above named land and other property, money, and effects, be divided between the Methodist Episcopal Church and the Methodist Episcopal Church South, according to the said plan of separation, or as to your honorable court shall seem just and equitable, under all the circumstances of this case; and that the share or portion belonging to said Methodist Episcopal Church South may be decreed to belong to the said Church South, and be handed over, or conveyed, or transferred, to the said complainants, as the agents of the said church, to and for the use and benefit of said Church South.

And, finally, complainants pray that the court will grant to complainants all such other different and further relief as they are, accord-

ing to equity, entitled to, or as your honors shall deem proper and due to the Church South; and, as in duty bound, they will ever pray, &c.

DANIEL D. LORD,
Solicitor for Complainants.
DANIEL LORD, *of counsel.*

June 15, 1849.

Circuit court of the United States, for the southern district of New York, in the second circuit. In equity.

The joint and several answer of George Lane, Levi Scott, George Peck, and Nathan Bangs, citizens of the State of New York, defendants, to the bill of complaint of Henry B. Bascom, a citizen of the State of Kentucky; Alexander L. P. Green, a citizen of the State of Tennesse; Charles B. Parsons, a citizen of the State of Kentucky; John Kelly, a citizen of the State of Tennessee; James W. Allen, a citizen of the State of Alabama; and John Tevis, a citizen of the State of Kentucky, plaintiffs.

These defendants, now and at all times hereafter, saving and reserving to themselves all and all manner of advantage and benefit of exception to the manifold errors, uncertainties, insufficiencies, and other imperfections in the plaintiffs' said bill of complaint contained, for answer thereunto, or unto so much and such parts thereof as they are advised it is material or necessary for them to make answer, they answering, say:

That they admit that, before and on the 8th day of June, 1844, there existed, and, as these defendants say, there still exists, in the United States of America, a voluntary association, known as "the Methodist Episcopal Church;" and although not incorporated in one body by any legal enactment, yet the same was, and is, a duly organized evangelical church. And these defendants further say that, although "the Methodist Episcopal Church" is not a body politic and corporate at common law, yet, under the law of pious and charitable uses, as protected and enforced in courts of equity, it has an organization, and performs functions, and exercises and discharges powers and duties, analogous to institutions strictly and legally incorporated; and that the said church is, in courts of equity, fully protected in the use and enjoyment of such functions, powers, and duties. And these defendants admit that, on the day above mentioned, the said church was composed of the number of bishops stated by the plaintiffs; but these defendants say that, according to their information and belief, the plaintiffs have not accurately stated the number of travelling preachers, ministers, or members belonging to the church at that time. And the defendants further admit that the said church was united and holden together in one organized body by certain doctrines of faith and morals, and by certain rules of government and discipline.

These defendants further answering say that, exercised within the restrictions and constitutional powers contained in its Book of Dis-

cipline, the supreme government of the Methodist Episcopal Church, comprising the authority to make rules and regulations for the church, limited by such restrictions and constitutional powers, was and is vested in a delegated body, called the General Conference; and that there are, within the system and polity of the church, Annual Conferences, which, in some, but not in all, respects, are bodies subordinate to the General Conference; also, quarterly conferences, bishops, presiding elders, and travelling ministers, in whom, and in which conferences respectively, are vested the powers and authority specified in the Book of Discipline; and, beyond the powers of government thus alluded to, these defendants deny the allegation of the plaintiffs' bill, that the general government of the said church was or is vested as therein stated.

And these defendants admit that the plaintiffs have partially stated the great object of the said Methodist Episcopal Church; nevertheless the defendants, more fully to set forth the design of the said church, say, that it comprehends the exercise of its ecclesiastical government and discipline, involving the itinerancy of its bishops and ministers; the promulgation of the doctrines of the gospel among all men; the due administration of Scriptural ordinances and the holy sacraments; the promotion of works of piety and benevolence; the revival and spread of scriptural holiness; and the conversion of the world to the faith and practice of Christianity.

And these defendants admit that the constitution, organization, form of government, and rules of discipline, as well as the articles of religion and doctrines of faith, of the Methodist Episcopal Church, were and are of general knowledge and notoriety, and are contained in a printed volume, entitled "The Doctrines and Discipline of the Methodist Episcopal Church." Yet these defendants say that such printed volume, in this answer designated the "Book of Discipline," has been, according to the forms and in the manner therein prescribed, and at various times since the organization of the said church, altered, amended, and revised in sundry particulars, a full and particular relation of which would be too extended to be here set forth; but, for an accurate account thereof, these defendants crave leave to produce and refer to a printed book, entitled "Emory's History of the Discipline;" also the several editions of the said Book of Discipline published by the agents for the Methodist Book Concern in the city of New York.

And these defendants, in respect of the "differences and disagreements" alleged by the plaintiffs to have "sprung up in the church between what were called the northern and southern members, upon the administration of the church government, with reference to the ownership of slaves by the ministry of the church," answer and say, that, according to the best of their knowledge, information, and belief, no such differences or disagreements had sprung up in the church between the northern and southern members prior to the session of the General Conference held in the city of New York, in 1844, attended with or seriously threatening the consequences alleged by the plaintiffs.

And these defendants, according to their best knowledge, information, and belief, also deny that it ever, prior to that session of the General Conference, became, or was, a question of grave or serious importance with the members of the church, or with any, except a few of them, whether a separation ought not to take place by geographical boundaries, or otherwise, so as that the Methodist Episcopal Church should thereafter constitute two separate and distinct Methodist Episcopal Churches; or that it was "thereupon," as erroneously alleged by the plaintiffs, that the resolutions which they denominate the "Plan of Separation," and which are set forth in their bill, were passed at the General Conference of 1844, held in the city of New York; and these defendants say, that then, and always hitherto, the greater portion of the church have not thought there was any sufficient cause for a separation or division of the church.

And these defendants further answering, with respect to such differences and disagreements, say, that during and subsequent to the session of the General Conference of 1844, those differences and disagreements principally grew out of the voluntary connexion of a bishop with slavery, and out of the proceedings of that body in reference thereto, hereafter referred to; that the rules of the Book of Discipline, and the uniform action of the General Conference, have always been adverse to the system of human slavery, it being regarded as a great evil; and prior to the session of the General Conference in 1844, the whole church, by common consent, united in proper effort for the mitigation and final removal of the evil; that the ministers have never been allowed to hold slaves, except in instances under the laws of the slaveholding States deemed to be cases of necessity; that the church never made, nor has its Book of Discipline ever contained, any law respecting the holding of slaves by a bishop of the church; that the General Conference have always refused to elect a slaveholder to that office; that at the session of the General Conference in 1844, held in the city of New York, it became known that the Rev. James O. Andrew, one of the bishops of the Methodist Episcopal Church, had, since his election to that office, become an owner of slaves—of one, by bequest; of another, by inheritance; and of others by his intermarriage with a lady in the State of Georgia, who held a number of slaves in her own right, which by the laws of the State became the property of her husband; that, as will appear by its printed journal, (pp. 65–83,) such proceedings were had by that General Conference, upon the admitted facts contained in a statement, in writing, made by Bishop Andrew, and which was in due form brought before the conference by one of its standing committees, called the "Committee on the Episcopacy," whose duty it was to inquire into the conduct and administration of the bishops, and to make report to the conference, as that the following preamble and resolution were duly and legally adopted by that conference, to wit:

"Whereas the discipline of our church forbids the doing any thing calculated to destroy our itinerant general superintendency, and whereas

Bishop Andrew has become connected with slavery, by marriage and otherwise, and this act having drawn after it circumstances which, in the estimation of the General Conference, will greatly embarrass the exercise of his office, as an itinerant general superintendent, if not in some places entirely prevent it, therefore

"Resolved, That it is the sense of this General Conference that he desist from the exercise of his office so long as this impediment remains."

And these defendants, upon their information and belief, further say, that the adoption of this resolution gave offence to a minority of the members of that General Conference, and who were delegates from Annual Conferences in the slaveholding States, and principally, if not wholly, induced those delegates to present a formal protest against such action of the General Conference, which was admitted to record on its journal, and, with the report in reference thereto of the committee appointed by the General Conference for that purpose, is appended to such journal, (pp. 186, 210,) to all which these defendants desire leave to refer; and which also induced such delegations from the Annual Conferences in the slaveholding States to present to said General Conference the declaration below referred to, which was read and referred to a committee of nine, whose report thereon is the so-called "Plan of Separation" herein mentioned, which declaration is recorded on page 109 of the printed journal of the General Conference, and to which also the defendants crave leave to refer; and which resolution, in the case of Bishop Andrew, further induced such delegates, (although without the authority of the General Conference, and in no manner sanctioned by any action of that body,) immediately after the adjournment of such General Conference of 1844, before the happening of the contingencies mentioned in the so-called "Plan of Separation" necessary to give the same effect, and before such delegates had departed from the city of New York, to address a circular to their constituents, and the ministers and members of the church in the slaveholding States, therein expressing their own opinion in favor of a separation from the jurisdiction of the General Conference, and advising the Annual Conferences within those States to elect from their own bodies several delegates to a convention proposed by them to be held at Louisville, Kentucky, in May following, to consider and determine the matter; all which finally led those Annual Conferences, or portion of them, at that convention to withdraw and separate from the Methodist Episcopal Church; to renounce and declare themselves wholly absolved from its jurisdiction, government, and authority, and to institute new and distinct ecclesiastical organization, separate from, and independent of, the General Conference of the Methodist Episcopal Church, under the denomination of "The Methodist Episcopal Church South," which is the same organization mentioned in said bill of complaint; and the plaintiffs, and all those whom they professedly represent, are adherents thereof, and are no longer attached to the Methodist Episcopal Church; and these defendants believe and sub-

mit, that these proceedings were, in no part, authorized by the rules of government or the constitutional law of the Methodist Episcopal Church, as contained in its Book of Discipline, but were in palpable hostility thereto.

These defendants, further answering, insist and submit, that the said resolution of the General Conference in the case of Bishop Andrew, instead of moving to a secession, called for due submission and respect from all the delegates to that conference, and all the ministers and members of the church; and the defendants, upon their belief, say, that the same and all the proceedings of that body leading thereto were regular, constitutional, and valid; that the voluntary connexion of Bishop Andrew with slavery was justly considered by a majority of said General Conference, and by most of the ministers and members of the church, as "improper conduct," and that every bishop is, by a law of the Book of Discipline, amenable to the General Conference, who are thereby declared to "have power to expel him for improper conduct if they see it necessary," and that such resolution and proceedings in the case of Bishop Andrew were in due accordance with the good government of the church.

And these defendants further answering, admit that the resolutions set forth by the plaintiffs, commencing at folio 7 of their bill, were, at a General Conference of the church, holden according to usage and discipline at New York, passed on the 8th day of June, 1844, by a majority of over three-fourths of the entire body; although, as these defendants state, such resolutions were, in respect of their operation or effect, provisional and contingent; were occasioned by, and based upon, the said declaration of the southern delegates, and were intended only to meet the future emergency predicted thereon, should the same arise; and that such resolutions were connected with, and preceded by, the statement and preamble embodied in the report of the said committee of nine, appointed by the General Conference to consider and report on such declaration, which report was adopted by the Conference, as will appear by its printed journal, (pp. 130, 137,) and which statement and preamble are to be taken, in connexion with said resolutions, as a part of said report thus adopted, and to which the defendants crave leave to refer as a part of this answer. But these defendants are advised by counsel that the said resolutions, embodied in such report of the committee of nine, called the "Plan of Separation," were not duly or legally passed; and that the General Conference of 1844 had no competent, nor any valid, power or authority to pass or adopt the said resolutions called the Plan of Separation, or any or either of them, except that portion thereof comprising the recommendation to the Annual Conferences to change the sixth restrictive rule; and these defendants are also advised by counsel that the last named resolutions, when adopted, were null and void, and without any binding force or validity, except in the matter of such recommendation merely; and these defendants therefore humbly submit these questions to this honorable court; and to show the extent of the constitutional

power of the said General Conference in this respect, these defendants state—

That from the ordination and election of the first bishops in the church in 1784, to the year 1808, the General Conference was composed of all the preachers in the connexion who had travelled four years from the time they were received by an Annual Conference; but in the General Conference of 1808, on the recommendation of a majority of the Annual Conferences severally acting in their primary capacities, it was proposed to do away with such general assembly of ministers, and to organize a delegated General Conference, to consist of a delegated number, to be elected by the several Annual Conferences according to a fixed ratio of representation, which proposition was agreed to in said general convention of 1808, upon the condition of adopting certain articles to restrict the powers of the future delegated General Conferences; whereupon a constitution for the government of the General Conference, embracing six restrictive articles, was accordingly established, defining who shall compose the General Conference, and what are the regulations and powers belonging to it; and the whole body of preachers, then assembled in general convention, adopted by such constitution the present plan for a delegated General Conference, transferring to them the powers of the whole body of preachers, with the express exceptions and limitations specified in such restrictive articles; which constitution and restrictive articles the defendants pray may be taken as a part of this answer as if here set forth; and for the contents of the same, and for the particulars of these facts and allegations, these defendants crave leave to produce and refer to the said constitution and restrictive articles, contained in the Book of Discipline for 1808, pp. 14, 15; also the subsequent editions of the "Discipline;" also "Emory's history of the Discipline," pp. 111, 113; also "Bang's history of the Methodist Episcopal Church," vol. 2, pp. 225, 234.

That such constitution and restrictive rules thus adopted, containing a general grant of all powers to make rules and regulations for the government of the church, under the restraints and within the limitations therein embodied, constituted the paramount law of the church, and have always been so considered, as well by the delegated General Conferences, whose legislative action they were intended to regulate, as by the Annual Conferences, bishops, ministers, and members of the church, whose rights and privileges were secured thereby; nor have the delegated General Conference ever had, or claimed, any power to alter or amend these restrictive articles, except in the manner therein prescribed, in conjunction with the constitutional majority and action of the Annual Conferences; nor have any alterations thereof ever been made, except in conformity with the provisions contained therein for such alterations; and never without such constitutional majority and assent of the several Annual Conferences voting thereon in their primary capacities.

That this constitution, embodying these restrictive articles, is still, and during the session of the General Conference of 1844, and at the

time of the passage of the resolutions called the "Plan of Separation" was the fundamental law of the church, as will be seen on reference to the Book of Discipline, pp. 21, 23, edition of 1844; that the General Conference is the representative body above mentioned, with powers, limited as aforesaid, to make rules and regulations for the government of the church. And these defendants, as they are further advised by counsel, believe and submit, that these restrictive articles limit and restrain the exercise of the powers of the General Conference to the enactment of rules and regulations for the church; to carry on, throughout the whole work, the economy and purposes of its government as already settled; prohibiting any change or alteration in any part or rule of such government, so as to do away Episcopacy, or destroy the plan of the itinerant general superintendency of the church; that they prohibit the exercise of any power by the General Conference to do away the privileges of the ministers, preachers, or members, of trial by committee, or before the society, and of an appeal; and also prohibit the General Conference, without the consent of three-fourths of the whole body of ministers, to be expressed in their several Annual Conferences, from appropriating the produce of the Book Concern or Chartered Fund, to any purpose other than for the benefit of the preachers belonging to the travelling connexion of the church, their wives, widows, and children. And the defendants, therefore, further submit to this honorable court whether the said resolutions denominated the "Plan of Separation," are not, in each and every of these particulars, inconsistent with, and subversive of, said constitutional law of the church, and in contravention of the limitations contained in the aforesaid restrictive articles.

And these defendants, further answering, submit, as further advised by counsel, that even had the so-called Plan of Separation been constitutional or valid, it merely provided a prospective plan, which, without the happening of certain future conditions, or, on the failure of which conditions, or either of them, could never have, by its express terms, and, as defendants say, was never intended to have, any force or validity. And these defendants expressly aver that these conditions have not happened, and they therefore further insist and submit, that the said so-called "Plan of Separation" has always been inoperative, has never had any force or validity, and is absolutely null and void.

And these defendants, further answering, say, that the so-called "Plan of Separation," whether constitutional or not, was never ratified by the annual conferences therein named, and therefore gave the Southern Annual Conferences no authority to act in the premises; and hence, as the defendants submit and insist, the Southern Annual Conferences have, in all respects, as to the Church South, acted on their own responsibility, without any authority from the General Conference of 1844.

And these defendants, further answering, say, that they admit the resolutions set forth by the plaintiffs, commencing at folio 20 of their bill, were adopted at a convention of delegates from annual confer-

ences in the slaveholding States, assembled at Louisville, in Kentucky, on the first day of May, 1845; but these defendants deny that the delegates composing that convention were elected on the basis, or according to the authority, of said provisional "Plan of Separation," so-called, or of any resolutions of the General Conference of 1844; and especially do these defendants deny, that said Louisville Convention, in adopting their said resolutions, or in any proceedings had therein, acted under the provisional "Plan of Separation" adopted by that General Conference, as is stated in one of such resolutions; but, on the contrary thereof, these defendants say, that said provisional plan did not confer any authority upon that convention to adopt their said resolutions, to organize the new ecclesiastical connexion therein mentioned, or to dismember the Methodist Episcopal Church; and, further, that the said convention was not convened by, or in pursuance of, any constitutional authority of that Church, or of its General Conference; and, also, that the proceedings leading to, and the transactions of, the said Louisville Convention, and which resulted in the organization of the Methodist Episcopal Church South, were occasioned and had by such of the ministers and members of the annual conferences in the slaveholding States as have attached themselves to the said Church South upon their own responsibility, and by their own unauthorized acts; whilst they repudiated the authority of the General Conference of the Methodist Episcopal Church, they refusing, and declaring their refusal, to submit to such authority; and that by revolutionary measures, tending to the dismemberment of the Methodist Episcopal Church, and by insubordinate proceedings, unwarranted by said "Plan of Separation" so-called, or by any authority of the Methodist Episcopal Church, they did institute the said "Methodist Episcopal Church South" as an independent ecclesiastical organization, separate from the jurisdiction of the General Conference of the Methodist Episcopal Church; and did solemnly declare such jurisdiction over them entirely dissolved. And, for some of the particulars of these facts and allegations, these defendants ask leave to refer to the aforesaid declaration, presented on the 5th June, 1844, to the General Conference of the Methodist Episcopal Church, at its session in New York, signed by fifty-one of the delegates in that conference from slaveholding States, and who are now attached to said Church South; which declaration is recorded in the journal of said General Conference, page 109; also to the "protest in the case of Bishop Andrew," herein before referred to, presented to said General Conference on the 6th day of said June, signed by such delegates and others, now attached to said Church South; also to the address to their constituents, the resolutions and proceedings of such delegates at their meeting in the city of New York, on the 11th June, 1844; also to the correspondence between Bishop Soule and Bishop Andrew, involving the request of the former to the latter, that he should resume his Episcopal functions, and his acceptance of that request, notwithstanding the aforesaid resolution of the General Conference of 1844 in his case; also to the proceedings of

said Louisville Convention; and also to the proceedings of the body assuming to be a General Conference composed of delegates from annual conferences attached to said Church South, held at Petersburg, Virginia, in May, 1846. Wherefore, these defendants insist and submit, that the "Methodist Episcopal Church South" exists as a separate ecclesiastical communion, solely by the result, and in virtue, of the acts and doings of the individual bishops, ministers, and members attached to such Church South, proceeding in the premises upon their own responsibility; and that such bishops, ministers, and members, have voluntarily withdrawn themselves from the Methodist Episcopal Church, and have renounced all their rights and privileges in her communion and under her government. And these defendants deny that the annual conferences represented in said Louisville connexion were, as is erroneously stated in the first of the resolutions of the convention set forth by the plaintiffs, constituted a separate ecclesiastical connexion under the provisional Plan of Separation, so-called, aforesaid.

And these defendants, further answering, admit, that at the time time and place in that behalf mentioned by the plaintiffs, a Council of Bishops of the Methodist Episcopal Church, called by the plaintiffs "Northern Bishops," met, and unanimously adopted the resolutions commencing at folio 24 of the said bill; but these defendants say, that the same were, as well by the express terms thereof as by the extent of any authority possessed by such council, or Bishops, limited in their application and effect to the administration of the said Bishops; which administration was, at that time, interrupted, resisted, and prevented, in the slaveholding States, by such portion of the revolutionary measures above alluded to as had then occurred, and by kindred measures of some of the present adherents of said Church South. Moreover, these defendants further state, that said Bishops were amenable to the General Conference, who have power to inquire into their administration, and expel them "for improper conduct," if they see it necessary; that the said provisional plan was an act of the General Conference to whom said Bishops were amenable, and that the General Conference had not then declared the said provisional plan null and void. But these defendants, with respect to those resolutions of the Bishops, submit, that they can have no influence or effect whatever upon the question of the alleged division of the Church; nor can any effect or virtue be attached to their acts or resolutions tending to divide or dismember the Church, or to warrant, in any sense, the allegation of the plaintiffs, that by or in virtue of such resolutions, in conjunction with such other proceedings as are alleged by the plaintiffs, or otherwise, the Methodist Episcopal Church ever became divided into two distinct Methodist Episcopal Churches.

And these defendants, further answering, deny that, by or in virtue of the proceedings alleged in the said bill of complaint, or of any part thereof, or otherwise howsoever, "the Methodist Episcopal Church" in the United States, as it had existed before the year 1844, or as it at any time existed, was lawfully divided into two distinct Methodist Epis-

copal Churches, in the manner alleged in said bill, or in any other manner whatever. And these defendants submit, that the separation and voluntary withdrawal from the Church of a portion of her bishops, ministers, and members, as herein mentioned, was an unauthorized separation from the Church.

And these defendants, further answering, say that the so-called Plan of Separation was wholly prospective and contingent in its provisions; and that the General Conference of 1844 adopted the said provisional Plan in view of, and based the same entirely upon, the declaration of the delegates from the annual conferences in the slaveholding States herein before mentioned, which alleged that certain acts of the General Conference, therein referred to, especially the act in the case of Bishop Andrew, must produce a state of things in the South which would render a continuance of the jurisdiction of that General Conference over those conferences inconsistent with the success of the ministry in the slaveholding States, and therefore the General Conference, by the said Plan, made provision for the adjustment of relations between the Methodist Episcopal Church and her separating ministers and members, to meet the emergency which might arise in the event of the contingency thus predicted in such declaration, when a separation should occur, by the act and deed of the annual conferences in the slaveholding States, from the necessity of the case. And these defendants are informed and believe, and therefore state, that independent of the aforesaid proceedings of the southern delegates, which contributed to such separation, the acts of the General Conference alone, and which are thus complained of, did not produce a state of things in the South which rendered a continuance of the jurisdiction aforesaid "inconsistent with the success of the ministry in the slaveholding States;" nor was the separation of the ministers and members, now composing the Southern Church, occasioned solely because the Annual Conferences in the slaveholding States found it necessary to unite in a distinct ecclesiastical connexion; but the way for such separation was prepared, and the same was superinduced and consummated, by the revolutionary measures herein before referred to, and which were begun at the seat, and nearly at the time, of the session of the said General Conference, before the predicted state of things in the South was, or possibly could be, produced by any acts of the General Conference.

Also, that the General Conference, by said provisional plan, proposed, in the event of the happening of the contingencies therein mentioned, regulations to be mutually observed by the Methodist Episcopal Church on the one part, and the prospective new church and the ministers and members thereof on the other part, with respect to the "northern boundary" of such new church, which required that such northern boundary should be fixed at the northern extremities of those "societies, stations, and conferences," a majority of whose members should, of their own free will and accord, vote to adhere to the said Southern Church; the due observance of which regulation was, as

these defendants insist and submit, a fundamental condition of said provisional plan. And these defendants, as they are informed and believe, state, that in this respect the said provisional plan has been violated by the said Church South, and by the said separating bishops, ministers, and members, now attached thereto, more particularly in the instances following: The said bishops, Andrew and Soule, since said southern organization, stationed preachers in Cincinnati, within the territory of the Ohio Annual Conference; and in Northampton county, Virginia, within the district of the Philadelphia Annual Conference; both which Annual Conferences have always remained attached to the Methodist Episcopal Church; and the aforesaid body, acting as the General Conference of the Church South, sanctioned those doings of said bishops, and also authorized the Virginia Annual Conference, which is claimed as a member of the Church South, to send ministers into the territory of the Baltimore Annual Conference, which is still attached to the Methodist Episcopal Church. And the said Methodist Episcopal Church South, and the bishops, ministers, and members attached thereto, as thus stated, have violated and disregarded said so-called plan.

Also, that the General Conference of the Methodist Episcopal Church, at its session, held at Pittsburgh, Pennsylvania, in May, 1848, having, as these defendants submit, and as they, according to their judgment and belief, state, full power and rightful authority so to do, did find and declare that the fundamental conditions of the said proposed plan, so-called, had severally failed; that the failure of either of them, separately, was sufficient to render said so-called plan null and void; and that the practical workings of said so-called plan were incompatible with the great constitutional provisions contained in said Book of Discipline; and they, the said General Conference, did also find and declare, the whole and every part of said provisional plan, so-called, to be null and void. And for the particulars hereof, these defendants desire leave to refer to the proceedings of, and reports adopted by, said General Conference, of 1848; especially to its printed journal, pp. 73, 85, 129, 130, and the final report of the Committee on the State of the Church, adopted by said conference, and appended to its journal, pp. 154, 164.

Also, that the so-called Plan of Separation in no event authorized a division or reorganization of the Methodist Episcopal Church into two separate churches, but provided regulations to be observed on the happening of the contingencies named in the so-called plan, should the southern Annual Conferences, on their own responsibility, withdraw from the Methodist Episcopal Church, and unite in a distinct confederation.

Wherefore, these defendants further insist and submit, that instead of the division of the Methodist Episcopal Church into two distinct churches, under and in pursuance of said so-called Plan of Separation, as is alleged by the plaintiffs, all those bishops, ministers, and members, who have attached themselves, by their own act and deed, to the

Methodist Episcopal Church South, including the plaintiffs, and all those represented in or by them in said bill of complaint, have voluntarily withdrawn from the Methodist Episcopal Church, and separated themselves from its privileges and government, and have thereby renounced and forfeited all right and claim, at law or in equity, to any portion of the funds and property in question in this cause.

And these defendants, further answering, deny that, by force of the proceedings alleged by the plaintiffs or otherwise, the Methodist Episcopal Church South became, was, or is entitled, at law or in equity, to any proportion of all or any of the property, real or personal, or of all or any of the funds or effects, which, up to the time of the separation, or any other time, belonged to the Methodist Episcopal Church in the United States, or elsewhere; and especially do these defendants deny, that the Methodist Episcopal Church South was, or is so entitled, to any produce of the Book Concern or Chartered Fund, or any property or funds pertaining thereto, without any change or alteration of the Sixth Restrictive Article above mentioned; or that, as erroneously alleged by the plaintiffs, a majority of three-fourths of all the members of the several annual conferences, which voted directly on the question in view of a division of the property, has been obtained in favor of any alteration of that article.

And these defendants, with respect to the allegation of the plaintiffs, that "said property and funds of the Methodist Episcopal Church had been obtained and collected by voluntary contribution, in which contribution the members of the Church South contributed the largest portion of the same," deny, that so far as the allegation has reference to the property and funds of the "Book Concern" in the city of New York, and its appendages, the same, or a greater portion thereof, have been obtained by voluntary contribution; and the defendants say, that the same were originally obtained, as is hereinafter stated; but in so far as the same were obtained by voluntary contributions, on the rebuilding of the Book Concern when damaged by fire, and in respect of any portion thereof contributed from the South, these defendants state, that all such contributions were made, intended, and given for the very object for which said Book Concern was then, and always had been, designed; that, on occasion of the contributions referred to, many others largely contributed who have since left the church; yet that any such separatists have never had, nor presumed to make, a claim for their quota of such contributions; nor, on that account, as these defendants submit, can they, or the plaintiffs, or those whom the plaintiffs represent, have or make any claim to recall the portion of donations they have severally made by such voluntary gifts and contributions.

And these defendants, further answering, admit, that before and on the 8th day of June, 1844, with the qualification and exception hereinafter stated relative to the Chartered Fund and the Book Concern in the city of New York, the Methodist Episcopal Church owned and possessed large amounts of property in various parts of the United

States—not, however, as the plaintiffs say, in addition to, but principally consisting of, meeting-houses, parsonages, and other estates of that description. But these defendants deny that, among other or any descriptions or claims of property, there ever belonged to said church, in the aggregate, or to its lay membership, what was, and still is, denominated "the Book Concern" in the city of New York; and these defendants say, that said Book Concern, with all houses, lots, machinery, printing presses, book bindery, books, paper, debts, cash, and other articles of property pertaining thereto, is now, and always has been, the property of the preachers belonging to the travelling connexion of the Methodist Episcopal Church and their families; but if any of such preachers do not, during life, continue in such travelling connexion and in the communion, and subject to the government of the Methodist Episcopal Church, they forfeit, for themselves and their families, all their ownership in, and all claim upon, said Book Concern and the produce thereof. And further, that the property of the said Book Concern, consisting as aforesaid, amounts in value, at the present time, to about the sum stated in the schedule hereto annexed, marked A, which schedule contains a general statement of all the assets and property pertaining to said Book Concern, and of the value thereof, on the first day of January, 1849, as accurately as the same could then, or can now, be conveniently ascertained; and which schedule is hereby referred to and made a part of this answer. And the defendants admit, that all said lands, property, and effects pertaining to said Book Concern, and enumerated in said schedule, are in the possession of the defendants, Lane and Scott, as agents for said Book Concern, who have been duly appointed as such agents by the General Conference of the Methodist Episcopal Church. And the defendants state, that such agents are enabled to hold said lands, and the buildings thereon and appurtenances, for the objects of said Book Concern and the purposes of such agency, by virtue of an act of the legislature of the State of New York, entitled "An act relative to the Methodist Book Concern in the city of New York," passed April 21, 1837, which has ever since been, and still is, a valid law of the State of New York, and of which the following is a copy, to wit:

"An act relative to the Methodist Book Concern in the city of New York, passed April 21, 1837:

"SEC. 1. It shall be lawful for Thomas Mason and George Lane, agents for the Methodist Book Concern, appointed by the General Conference of the Methodist Episcopal Church, and their successors, as such agents, to take and hold real estate in trust for the purposes of such agency, and to demise and convey the same; but the value of such real estate so taken and held by them shall not exceed two hundred thousand dollars.

"SEC. 2. The real estate heretofore conveyed to Thomas Mason and George Lane, as agents as aforesaid, shall be considered as part of the real estate to be held by them and their successors as such agents

in trust as aforesaid." (Session laws of New York of 1837, ch. 232, p. 220.)

And these defendants, further answering, state, that the said Book Concern was originally commenced and instituted by travelling ministers of the Methodist Episcopal Church on their own capital, with the great design, in the first place, of circulating religious knowledge, by whom it was surrendered to the ownership of all the travelling preachers in full connexion, and made subject to the control of all the travelling preachers in their General Convention, then called the General Conference; and it was agreed, from time to time, that the profits arising from the sale of the books should be applied to pious and charitable objects, but principally to the support of travelling ministers and their families, until, in the General Conference of 1796, it was determined that the said moneys should in future be applied wholly to the relief of travelling preachers, including such of them as were superannuated, and the widows and orphans of such as were deceased; one of the decisions of which General Conference in that year was "the produce of the sale of our books, after the book debts are paid and a sufficient capital is provided for carrying on the business, shall be regularly paid into the Chartered Fund;" and the object of said fund was for "the relief of distressed travelling preachers, for the families of travelling preachers, and for the superannuated and worn-out preachers, and the widows and orphans of preachers." That, from that time to the General Conference of 1808, no other appropriation whatever was made of the proceeds of said Book Concern but for the benefit of travelling preachers of the Methodist Episcopal Church and their families; and that until and in the General Conference of that year, as is herein before stated, all the travelling preachers in full connexion who had travelled four years, belonging to the church, had a seat in and were members of the General Conference; at which time, on the occasion of adopting the plan for a delegated General Conference with constitutional powers, limited by certain restrictions as above detailed, the said General Conference of travelling preachers established a constitution, as already stated, specifying who should compose, and defining the regulations and powers belonging to, such delegated General Conference; and therein and thereby providing that the General Conference should have full powers to make rules and regulations for the church, under six specified limitations and restrictions, commonly called the Restrictive Articles, which are fully set out in the Book of Discipline; by means whereof, the said general convention of travelling preachers, as defendants, submit they lawfully might do, committed the management of the said Book Concern to such delegated General Conference, as to agents or trustees, under and subject to the limitation and restriction contained in the sixth of said Restrictive Articles, which the defendants crave leave to read and refer to as a part of this answer.

And the defendants pray that said Constitution and Restrictive Articles, especially the above recited sixth restrictive article, may be taken as a part of this answer; and that they may have leave to read and

refer to said Constitution and Restrictive Articles, and to the proceedings of said general convention of travelling preachers, as a part also of this answer.

And these defendants further answering say, that the recommendation of the General Conference of 1844, contained in the aforesaid resolution embodied in the so-called Plan of Separation, to all the annual conferences, to authorize a change of the sixth restrictive article, so that the first clause should read as in said resolution specified, has not been concurred in by the constitutional majority of the members of such annual conferences, and that such recommendation has entirely failed; that such recommendation was duly laid before all the annual conferences, and that they all voted thereon; but on canvassing the votes at the General Conference in 1848, which body had full power to determine the number of votes by the annual conferences for altering such restrictive rule, it was ascertained and declared that the number of votes necessary to authorize such alteration had not been obtained; nor have the annual conferences at any time since authorized such change of said article.

And these defendants, for the proceedings of said General Conference, and the particulars in respect of such votes, crave leave to refer to the Journal of that conference, page 56, and to the Report of the Committee on the State of the Church, being document L, recorded in the Journal of Reports of said General Conference.

Wherefore these defendants, as touching the allegations and claims in the plaintiff's bill with regard to the property denominated the "Book Concern" and "Chartered Fund," and the moneys, effects, and credits pertaining thereto, insist and submit that the Methodist Episcopal Church South is not entitled, at law or in equity, to have a division of such property made, as claimed by said bill; nor is such Church South thus entitled to any share or portion thereof; nor are any of the ministers, preachers, or members, attached to such Church South, thus entitled to any portion of the same; and that they, being no longer travelling preachers belonging to the Methodist Episcopal Church, could not be so entitled without a constitutional change in the said sixth restrictive article, which would authorize such division.

And these defendants, further answering, deny that at the time alleged by the plaintiffs, or at any other time, the agents of the Book Concern at New York, in pursuance of the provisions or terms of said resolutions, called by the plaintiffs the Plan of Separation, paid to the several annual conferences of the Methodist Episcopal Church South their proportion of the profits and income of the Book Concern, as fixed and set apart by the said agents for the year 1845; and, in respect of such allegation, these defendants say, that the portion of profits and income alluded to by the plaintiffs, which said book agents paid to such annual conferences, had accrued and been apportioned to such southern conferences previous to the organization of the Methodist Episcopal Church South, whilst such conferences were connected with the Methodist Episcopal Church, and that such payment was

made without any reference whatever to the said so-called Plan of Separation. And the defendants admit that, since the year 1845, the said agents have refused to pay to the Annual Conferences South, who have separated from the Methodist Episcopal Church as aforesaid, any thing further from the profits or income of said Book Concern, as these defendants submit, in justice and right, and according to their duty, said agents ought to have done. And these defendants deny, that such Annual Conferences South are legally entitled to any portion or share of such profits or income, or that the withholding thereof from them, by said agents, is in violation of their rights.

And these defendants further answering admit, that the body assuming to act as the General Conference of the Methodist Episcopal Church South, holden at Petersburg, Va., in May, 1846, proceeded to appoint the commissioners, as stated in said bill, and for the purposes therein stated; and the defendants also admit, that the body aforesaid adopted the resolutions commencing at folio 34 of the plaintiffs' bill; but these defendants submit and insist, that such resolutions are entirely nugatory in their effect upon the property and funds therein referred to, and the matters pertaining to the same.

And the desendants admit that said commissioners have made the applications to these defendants and James B. Finley, and the requests of them, in the said bill stated; and that these defendants have refused to act in the premises; and they say they have thus refused for the reasons and on the grounds herein set forth.

The defendants also admit, that the plaintiffs have not been enabled to induce the said book agents, nor the Methodist Episcopal Church, nor the commissioners named by the plaintiffs, to pay to the Church South any portion or share of said property and funds, except as aforesaid; but the defendants deny that said Church South is lawfully entitled to any proportionate or any other share of said property or funds, as provided by said Plan of Separation, so called, or otherwise.

And the defendants admit that the plaintiffs are members of the Methodist Episcopal Church South, and that they are preachers belonging to the travelling connexion of said Church South; but these defendants deny that, as such, they, or any or either of them, have any personal interest in the real estate, personal property, debts, or funds above mentioned; or in any property, debts or funds, if any, now holden by the Methodist Episcopal Church through these defendants, or any of them, as agents or trustees appointed by the General Conference of the Methodist Episcopal Church, or otherwise.

And these defendants, further answering, say that they have not sufficient knowledge or information either to admit or deny whether the allegations in the plaintiffs' bill respecting the number of preachers belonging to the travelling connexion of the Methodist Episcopal Church South, and the number in the membership of that church, are true or not; and the plaintiffs are therefore left to make such proof thereof as they may be able and advised to do. These defendants, however, according to their belief, say that such numbers have been overstated by the plaintiffs.

And these defendants, further answering, deny that the preachers belonging to the travelling connexion of the Methodist Episcopal Church South, or any or either of them, have a direct and personal, or other legal and equitable, interest in the same right, with the plaintiffs or otherwise, in said property, situated and held as herein before stated, or in any part or portion thereof, to any amount whatever. And these defendants utterly deny that the lay membership of the Church South, whether in number as stated by the plaintiffs or otherwise, are parties in interest in the subject-matter of the plaintiffs' bill, or have, or ever had, any pecuniary interest in the said funds or property.

And these defendants, further answering, admit that these defendants are members of the Methodist Episcopal Church, and are preachers belonging to the travelling connexion of that church, and that each of them has a personal interest in the said property and funds. But these defendants state, that such interest in the same only as is held in common by all the preachers in the travelling connexion of the Methodist Episcopal Church, and depends upon the contingency of their remaining in that connexion. And these defendants admit that the defendants, Lane and Scott, have the custody and control by law, and by virtue of their appointment, as agents of the Book Concern, by the General Conference of the Methodist Episcopal Church, of all the said property and effects of the said Book Concern.

And these defendants, further answering, say, that they have no certain knowledge thereof, but, according to their information and belief, they deny that the plaintiffs have brought their said bill by the authority, and under the direction, of all the annual conferences, and travelling preachers, or members of said Church South. And these defendants claim and insist upon the same benefit and advantage of this objection to the right of said plaintiffs to bring said bill, as if the same were interposed by plea or demurrer, or in other proper manner.

And these defendants, George Lane and Levi Scott, further answering, say, that the schedule hereto annexed, marked A, contains a full, particular, and just account of all the real estate, personal estate, goods, debts, money, and effects of every sort or kind, held by them, or either of them, as agent or agents, trustees, or members of the Methodist Episcopal Church, so far as such account can, at the present time, be conveniently made up; and the same comprises all the assets and property pertaining to said "Book Concern."

And these defendants, Nathan Bangs and George Peck, admit that, by the terms of the resolutions already referred to, they, together with James B. Finley, were appointed, by the General Conference of the Methodist Episcopal Church of 1844, held at New York, commissioners for the purposes stated in such resolutions, in the event aforesaid of their becoming operative; but say that they have not received any other appointment or authority, as commissioners or otherwise, to act upon the part of said General Conference, or said church, with any commissioners on the part of the South, in relation to any division, distribution, or settlement of the property herein referred to, or of any

so-called "church property." And these defendants, Bangs and Peck, further say, that inasmuch as the said resolutions, denominated the Plan of Separation, have never had any validity, and have been declared null and void in the manner herein before stated, they admit they have refused to act as such commissioners, under those resolutions, in any settlement or division of any property.

And the defendants submit that the plaintiffs are not entitled to the relief or decree prayed for in said bill of complaint, or to any other relief or decree against these defendants touching the matters in said bill set forth.

And these defendants, in answering further, say, that as they are advised by counsel, and believe, and therefore submit, the claim of the Methodist Episcopal Church South to a pro rata portion of the funds and property in question in this suit, is not clear, but, on the contrary, must be conceded to be at least doubtful in law; and that these defendants cannot safely pay or deliver over the same to them, or their agents lawfully constituted, without their first having their rights therein and thereto established, and without the sanction and authority of a court of law. And they therefore pray that, in any event, they may be protected from all injury in the premises; that their rights and duties therein may be established, and all proper costs, counsel fees, commissions, and expenses of every kind, may be allowed to them under the decree of this honorable court.

All which matters and things these defendants are ready and willing to maintain and prove as this honorable court shall direct. And they humbly pray to be hence dismissed with their reasonable costs and charges in this behalf most wrongfully sustained.

Dated New York, October 15, 1849.

GEORGE LANE,
LEVI SCOTT,
GEORGE PECK,
N. BANGS.
E. L. FANCHER,
Solicitor for defendants.
GEORGE WOOD,
Of counsel.

SOUTHERN DISTRICT OF NEW YORK, *ss.*

On this 2d day of October, 1849, before me, personally appeared George Lane, Levi Scott, George Peck, and Nathan Bangs, defendants named in the aforegoing answer, who, being by me severally duly sworn, did depose and say, and each for himself said, that he had read the aforegoing answer subscribed by him, and knew the contents thereof, and that the same was true, of his own knowledge, except as to the matters therein stated on the information or belief of the defendants; and, as to those matters, that he believed the same to be true.

GEO. W. MORTON,
U. S. commissioner, southern dist., New York.

SCHEDULE A,

Mentioned and referred to in the aforegoing answer.

Assets.

1. Real estate—four houses and lots in Crosby street	$11,968 00		
Lots in Mulberry street, with buildings, &c.	103,573 88		
			$115,541 88
2. Cash—cash in bank and in hand	23,364 06		
New York and Ohio State stock, &c.	32,143 33		
Kentucky do.	5,150 00		
			60,657 39
3. Periodicals—amount due on periodical books			43,452 00
4. Merchandise—Sunday school books, books of the general catalogue, sheet stock, &c , &c.			180,179 37
5. Printing office—presses, type, furniture, and white paper	23,816 28		
Stereotype plates	64,484 48		
Steel plate engravings, wood and metal cuts	5,327 00		
			93,627 76
6. Foundry—materials, tools, and furniture			818 31
7. Bindery—presses, tools, and materials			7,643 05
8. Notes and book accounts, viz: In notes	$62,525 66		
Book accounts	114,096 34		
	176,622 00		
Deduct twenty per cent. for bad debts	35,324 40		
			141,297 60
			643,217 36

Liabilities.

The concern owes, on book accounts	8,403 94
Nett amount of capital stock estimated at	$634,813 42
The nett profits of the past year amount to	$32,833 52
Paid conference dividends during the year	12,300 00

Remarks.

The bound books of the general catalogue are reckoned at a discount of fifty per cent. from the retail price, and the Sunday school books at twenty per cent. The folded and sheet stock at estimated cost. The stock in printing office, bindery, &c., at what it is believed to be worth in cash.

3033.

U. S. circuit court, in equity.

The replication of Henry B. Bascom, a citizen of the State of Kentucky; Alexander L. P. Green, a citizen of the State of Tennessee; Charles B. Parsons, a citizen of the State of Kentucky; John Kelly, a citizen of the State of Tennessee; James W. Allen, a citizen of the State of Alabama; and John Tevis, a citizen of the State of Kentucky, to the answer of George Lane, Levi Scott, George Peck, and Nathan Bangs, citizens of the State of New York.

The repliants, saving and reserving to themselves, now and at all times hereafter, all and all manner of benefit and advantage of exception which may be had or taken to the manifold insufficiencies of the said answer, for replication thereunto say, that they will aver, maintain, and prove their bill of complaint to be true, certain, and sufficient in the law to be answered unto; and that the said answer is uncertain, untrue, and insufficient to be replied unto by these repliants; without that, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed and avoided, traversed or denied, is true; all of which matters and things these repliants aver, and will be ready to aver, maintain, and prove, as this honorable court shall direct; and humbly pray as in and by said bill they have already prayed.

DANIEL D. LORD,
Solicitor for plaintiffs.

At a term of the circuit court of the United States of America, for the southern district of New York, in the second circuit, on the twenty-sixth day of November, in the year of our Lord one thousand eight hundred and fifty-one.

Present, the honorable Samuel Nelson and the honorable Samuel R. Betts, judges.

Decree.

Between WILLIAM A. SMITH, a citizen of Virginia, Alexander L. P. Green, a citizen of Tennessee, and others, complainants,
and
GEORGE LANE and Levi Scott, citizens of New York, and others, defendants.

This cause having been heard on the pleadings and proofs taken in the same, and Mr. Daniel Lord and Mr. Reverdy Johnson, on behalf of the complainants, and Mr. Rufus Choate and Mr. George Wood, on behalf of the defendants, having argued before this court the matters in this cause, and the court having deliberated thereon, it is now, on motion of Mr. D. D. Lord, solicitor of the complainants, declared, adjudged, ordered, and decreed, and this court doth declare, adjudge, order, and decree:

1. That under the resolutions of the General Conference of the

Methodist Episcopal Church, holden at New York, according to the usage and discipline of the said church, passed and adopted on the eighth day of June, in the year of our Lord one thousand eight hundred and forty-four, (in the pleadings mentioned,) it was, among other things consented to, determined and agreed by the Methodist Episcopal Church in the United States of America, as then existing, that in case the Annual Conferences in the slaveholding States should find it necessary to unite in a distinct ecclesiastical connexion, the members, local and travelling, of every grade and office in the Methodist Episcopal Church, might attach themselves to such new ecclesiastical connexion without blame.

2. That the Annual Conferences in the slaveholding States above mentioned did find and determine that it was right, expedient, and necessary to erect the Annual Conferences last aforesaid into a distinct ecclesiastical connexion, based upon the Discipline of the Methodist Episcopal Church aforesaid, comprehending the doctrines and entire moral and ecclesiastical rules and regulations of the said Discipline, (except only in so far as verbal alterations might be necessary to or for a distinct organization,) which new ecclesiastical connexion was to be known by the style and title of the "Methodist Episcopal Church South," and that the "Methodist Episcopal Church South" was thus duly organized and assembled in a convention thereof at Louisville, in Kentucky, in the month of May, in the year of our Lord one thousand eight hundred and forty-five.

3. That by force of the said resolutions of June 8, 1844, and of the right, authority, and power of the General Conference of the Methodist Episcopal Church, by whom the same were adopted, and by virtue of the said finding and determination of the said Annual Conferences in the slaveholding States therein mentioned, and by virtue of the organizantion of such conferences into a distinct ecclesiastical connexion as last aforesaid, the association known as the "Methodist Episcopal Church in the United States of America," as then and previously existing, was divided into two associations or distinct Methodist Episcopal Churches, as in the bill of complaint is alleged.

4. And it is further declared, adjudged, and decreed, that the property denominated the "Book Concern," in the city of New York, in the pleadings mentioned, was, at the time of the said division, and immediately before, a fund subject to, and charged with, a charitable use—namely, that the profits arising therefrom, after retaining a sufficient capital to carry on the business thereof, were to be regularly applied towards the support of the deficient travelling, supernumerary, superannuated, and worn-out preachers, of the Methodist Episcopal Church, their wives, widows, and children, according to the rules and discipline of the said church; and that the said fund and property were held by the said defendants, George Lane and Levi Scott, as trustees thereof, subject to the said charitable use.

5. And that, by virtue and in force of the said division of the said association, the deficient travelling supernumerary, superannuated, and

worn out preachers, their wives, widows, and children, who were comprehended in, or in connexion with, the Annual Conferences, constituting the "Methodist Episcopal Church South," were, are, and continued to be, beneficiaries and objects of the said charitable use, to the same extent as if the said division had not taken place, and in the same manner as persons of the same description who are comprehended in, or in connexion with, the other association, denominated, after the said division, the "Methodist Episcopal Church," the said charitable use and trust fund to be administered by the General and Annual Conferences of the said associations and churches under the separate organizations thereof, under the rules and discipline thereof, respectively, and according to the nature and constitution of the said charitable use and trust fund.

6. And it is further declared, ordered, adjudged, and decreed, inasmuch as it appears that the defendants, George Lane and Levi Scott, have denied the right of the complainants, and of the beneficiaries of the said charitable use, in connexion with, or comprehended in, the "Methodist Episcopal Church South;" that so much and such part of the capital and property composing the said trust fund, called the "Book Concern," at New York, as corresponds with the proportion which the number of the travelling preachers and others, beneficiaries, &c., in connexion with the last mentioned church, bears to the number of all the travelling preachers, beneficiaries, &c., of the Methodist Episcopal Church, at and immediately before the said division thereof, ought to be transferred from their hands to such new trustees, agents, or appointees, as have been, or shall from time to time be, appointed by the Methodist Episcopal Church South, by the General or Annual Conferences thereof, proceeding according to the rules and discipline thereof, to be administered according to the aforesaid nature and constitution of the said charitable use, and the rules and discipline of that church.

7. And thereupon it is ordered that it be referred to the clerk of this court to ascertain and report what was the amount and value of the said property and fund called the "Book Concern," at New York, in the pleadings mentioned, at and immediately before the said division and organization of the Methodist Episcopal Church South, in May, one thousand eight hundred and forty-five, and of what specific property and effects (according to the general description or classification thereof) the same consisted, and what has since been the increase thereof, and of what the same now consists, specifying the profits derived from the "Book Concern," from the time of the General Conference of May, eighteen hundred and forty-four, as reported thereto, (if so reported,) up to the time of the said division, and also specifying the profits derived therefrom from the last mentioned time to the date of his report.

And also that he ascertain and report what part, if any, of such profits have been applied to the use of the beneficiaries of the said fund in connexion with, or who became connected with, the Methodist Episcopal Church South, or to the Annual Conferences composing

the same, and to the other beneficiaries of the said fund, specifying, by general or average statements, the amounts to each class, and the times of the application thereof, respectively.

8. And, further, to ascertain and report the numbers and proportions of the beneficiaries qualified, according to the usage and discipline of the Methodist Episcopal Church, first mentioned, before and at the time of the said division, to receive the benefit of the said trust fund, taking the proportion which the number of travelling preachers in the Annual Conferences, which formed themselves into the Methodist Episcopal Church, bears to the number of all the travelling preachers of the Methodist Episcopal Church before the division thereof, as such numbers appear in the minutes, intended as "the forthcoming minutes," in the resolutions of June, 1844, such minutes to be taken as correct so far as the same extend.

9. And the clerk is further to ascertain and report in what form, as to specific property, funds, money, or assets, the transfer of the share to be set over as aforesaid may, with most convenience and advantage to both parties, be made, with the suggestions from each party in relation thereto, which he may think fit to report to this court in relation to such division.

10. And it is further ordered, that on the reference aforesaid, and on the hearing before the clerk, the defendants are to produce on oath all deeds, accounts, books of account, instruments, reports, letters and copies of letters, memorandums, documents, and writings whatever, pertinent to the said reference, in their possession, power, or control; and the defendants may be examined on oath on the said reference, and each party may produce evidence before the clerk on the reference, and may have the process of the court to compel the attendance of witnesses. And the court is to report in the premises with all convenient speed.

11. And all equities and questions not disposed of in this decree, and all which shall arise on the said reference, and on the report of the clerk, and all questions of costs, are reserved until the coming in of the said report; and each party is at liberty to apply to this court, on the footing of this decree, until the coming in of the clerk's report hereby directed.

D. D. LORD,
Solicitor for Complainants.

Circuit Court of the United States, for the southern district of New York.

WILLIAM A. SMITH, a citizen of Virginia, Alexander L. P. Green, a citizen of Tennessee, and others, complainants,
vs.
GEORGE LANE and Levi Scott, citizens of New York, and others, defendants.

The undersigned, to whom by the decretal order of the above court of the 26th day of November, 1851, the said cause was referred, with directions to ascertain and report what was the amount and value of

the property and fund mentioned in the pleadings in said cause, and called the "Book Concern at New York," at and immediately before the division and organization of the Methodist Episcopal Church South, in May, 1845, and of what specific property and effects the same consisted, and what has since been the increase thereof and of what the same now consists, specifying the profits derived from the Book Concern from the time of the General Conference of May, 1844, as reported thereto (if so reported) up to the time of the said division, and also specifying the profits from the last mentioned time to the date of this report; and also to ascertain and report what part, if any, of such profits has been applied to the use of the beneficiaries of the said fund, in connexion with, or who became connected with, the Methodist Episcopal Church South, or to the Annual Conferences composing the same, and to the other beneficiaries of the said fund, specifying the amounts to each class and the times of the application thereof respectively. And further, to ascertain and report the numbers and proportions of the beneficiaries qualified according to the usage and discipline of the Methodist Episcopal Church, before and at the time of the said division, to receive the benefit of the said trust fund, taking the proportion which the number of travelling preachers in the Annual Conferences which formed themselves into the Methodist Episcopal Church South, bears to the number of all the travelling preachers of the Methodist Episcopal Church before the division thereof, as such numbers appear on the minutes, intended as the "forthcoming minutes" in the resolutions of June, 1844, such minutes to be taken as correct so far as the same extend; and also to ascertain and report in what form, as to specific property, funds, money or assets, the transfer of the share to be set over to the trustees, agents, or appointees of the Methodist Episcopal Church South, may with most convenience and advantage to both parties be made, with such suggestions in relation thereto, from each party, as he may see fit to report, begs leave most respectfully to report, that in pursuance of the said decretal order he has proceeded to investigate the matters which he is therein directed to ascertain and report; and that in said investigation he was attended by the counsel and parties respectively, and received such proofs and evidence as was deemed requisite by the counsel of the respective parties to be produced before him, which proofs and evidence are herewith returned with this report; and that the said defendants, in obedience to the requirements of the said decretal order, did produce under oath all "deeds, accounts, books of account," &c., &c., as was called for by the counsel for the complainants.

That, having heard the evidence of the parties and the arguments of counsel, he has proceeded to make up his report of the matters referred to him, the details of which will more particularly appear in the tabular statement hereto annexed; and in order that the court may be informed of the reasons and principles which guided him in the statement of the said account, he craves leave to embody the same, and submit them with this report.

It was contended by the counsel for the complainants, that as the trustees or agents of the Book Concern have, since the division of the church, neglected and refused to allow the beneficiaries South to receive their share of the profits of the Book Concern, and denied their right to receive the same that they must be regarded from that time as misconducting and defaulting trustees, and must be charged in the account upon principles applicable to unfaithful trustees, who have violated and repudiated their trust; or, as it was stated by the counsel in another form, as if they were defendants in an action of trover and conversion.

To this I would remark—

1. That trustees are only, as a general rule, to be charged with reasonable care and diligence, together with perfect good faith; that mere errors of judgment in the honest administration of their trust, are not to entail upon them the consequences of a fraud. That the trustees in this case have violated their trust, in denying to the southern beneficiaries a participation in the fund, is settled by the decree of the court; but that it was done fraudulently or from dishonest motives, no where appears, either in the decree or in the proofs. On the contrary, it appears, that in doing as they did in a case of extraordinary embarrassment and difficulty, they supposed they were acting as the faithful guardians of the trust, and preventing its being wasted upon persons who had voluntarily thrown themselves beyond the pale of the charity. They erred in point of law, but I do not think they should be charged as misconducting trustees, when they were honestly, though mistakenly, endeavoring to conduct themselves as faithful conservators of the fund.

2. Even admitting that they are to be charged as misconducting and fraudulent trustees, it does not follow that the beneficiaries should be so charged. The consequence of fraudulent conduct on the part of trustees, falls upon them personally, and not upon the fund or beneficiaries. I do not see that the share of the northern beneficiaries can any more be charged with the misconduct or fraud of the trustees, than the beneficiaries themselves could be personally charged. If the northern beneficiaries have received more than they are entitled to, (which does not appear,) the only consequence that I can perceive is, that they must refund.

3. Admitting, not only, that the trustees have been guilty of misconduct and fraud, but that the northern beneficiaries, preachers, widows, and orphans have connived, colluded, or encouraged them in the fraud, would that alter the case? The trustees of this charity have the sole legal title and control of the fund; the beneficiaries as such are mere passive recipients of their periodical shares, having no more control over the trustees or their conduct than the most entire stranger to the church and religion, whether Jew or Gentile; though the trustees therefore may have been guilty of fraud, and the northern beneficiaries may have approved and applauded it, their approbation or disapprobation being accompanied by no legal power, should be visited with no legal consequences, provided such approbation or disapprobation be not of conduct

of such a nature as to deprive them of the character of beneficiaries, which could only be done, I suppose, according to the discipline of the church, by expulsion or degradation. Besides, the rights of the beneficiaries are not made by the founders or foundation of the charity, dependant upon any approval or disapproval of the conduct of the trustees; the charity must be administered as it was founded, and even the court would have no power to interpolate or fabricate any conditions which would restrict or qualify either the number of the beneficiaries or the amounts of their shares in the fund.

4. Again, to state this account on the principles contended for, or as in an action of trover and conversion, would, of course, (and such result is claimed,) throw upon the northern beneficiaries the entire responsibility of this fund from the time of the division down to the date of this report; so that, if by losses of trade or casualty by fire, one half of the entire fund (assuming that proportion for the present) had been destroyed, that half so destroyed would be regarded as the half belonging to the northern beneficiaries. The South would then take the remaining half, and the North would be left destitute; the northern travelling preachers must then go back to staff and scrip, and as a wayfaring pilgrim go forth on the great mission of his church. Such would be a result plainly at war with the objects for which this charity was instituted, for it was intended to be a perpetual fund, not only for the travelling preachers, &c., of the present time, but for their successors in all time to come; and whether greater or less, whether swelled by profits or diminished by losses, was to be divided in due proportions to the beneficiaries of the whole church, whether north or south; and while the trustees of the present time can do nothing to impair the rights of the present beneficiaries, the present trustees and beneficiaries together can do nothing to impair or alienate the rights of their successors, for that would be to concede to them the power of altering the very foundation of the charity.

5. Admitting that the account is to be stated on the principles claimed, and that the share of the northern beneficiaries is to be charged as contended for, I do not see how the state of the account could be materially varied; what is the share of the beneficiaries? Merely a share in the profits, to be periodically divided; not a share in the capital; that is a fund consecrated to the church, and the whole church, north and south, not the church of to-day, but of all time to come, and must be left as intact and intangible, as was contemplated by the foundation of the charity.

Having thus settled the general principles upon which the said account is stated, I proceed to consider the evidence by which it was sustained.

In the management of the said Book Concern, it was the duty of the trustees to render a particular account and estimate of value of the property and effects of the Book Concern, and the nett profits thereof, to the annual conferences. The accounts so rendered to the conferences since the division of the church were produced in evidence before me,

and are hereto annexed, and marked as exhibits. These accounts and estimates so rendered, the counsel for complainants contend, are, if not conclusive, at least most forcible evidence of the property and value of the Book Concern as against the defendants in the case, and is not to be rebutted except upon the most complete and unbounded testimony. The trustees and agents of the concern who made up and reported those accounts and estimates, now swear that they are erroneous, by being altogether too high, and the alleged excess amounts to a very large sum, which makes the question as to the character and effect of that evidence one of some importance. The counsel for complainants contend that the declarations of the trustees, especially in this apparently formal and considerate manner, being the declarations of common agents in the course of their business, is not evidence, but evidence of binding force against the defendants or beneficiaries. That the declarations of an agent made in the course of, and within the scope of, his business, is binding upon his principal, is not to be questioned or doubted; but this I conceive relates to what he says when dealing with third parties. What an agent says to his principal while giving him an account of his proceedings, or favoring him with his opinion or estimate of the value of his estate, if any evidence at all, is of but comparatively little force. See 4 Taunt. R., 511; ib. 565, 563. And it seems to me that the report made by the book agents to the General Conference are to be regarded in the light of declarations made by an agent to his principal, while giving an account of his actings and doings. As these agents, therefore, who made those estimates, and who of course know how and what they estimated, now swear that they are erroneous and over estimated, I have taken their testimony under oath before me, instead of their unsworn statements to the conferences, as the evidence of value, no other or better having been produced before me.

It was also contended by the counsel for defendants, that there should be a further deduction from the value of the Book Concern as estimated in the reports to the General Conferences, on the ground that the stereotype plates had been twice estimated; first, as stereotype plates; second, that they were again included in the estimate of the sheet stock. This seems to be contended, upon the principle that, after the plates have been printed from, they are reduced to a certain extent in value, and that the diminished value of the plates has passed into the bound stock; such undoubtedly is the case, but the evidence appears to be that all due allowances were made, and the account is therefore stated without making the deduction claimed.

In stating the said account I have considered that the annual dividends due and not paid to the southern beneficiaries, to be so much added annually to the capital stock of the concern, upon which annual dividends, from the time they respectively became due, interest at the rate of 7 per cent. is allowed down to the date of this report. That the aggregate of said dividends and the interest thereon is to be deducted from the general fund for the benefit of the southern beneficiaries; and that the remaining balance of the entire Book Concern is

to form the subject of the ultimate division according to the proportions of the travelling preachers.

In determining the number of travelling preachers, I have included the probationers, or those preachers who have not travelled two years, as beneficiaries of the fund they having been regarded as such by the church, by being allowed to participate in it, at least, to a certain extent; and if they were not within the meaning of the charity, they had no right to participate in it at all, and in point of fact they are literally travelling preachers.

In fixing the date when the number of travelling preachers is to be estimated, I have taken the minutes of 1844, instead of 1845, considering those the "forthcoming minutes" referred to in the resolutions, and in the decree of the court; and also as being the most equitable, for the reason that it appears to have been considered by the General Conference of 1844, and it seems, with great justice, that if in pursuance of their resolutions the church should be divided, the division should for this purpose date back to 1844, and should be made upon the basis of matters as they stood at that time; that if their recommendation should be adopted, there being no intermediate General Conference, nor any intermediate general action or co-operation, but each party acting separately and disconnectedly through its Annual Conferences, all connexion might be regarded as having ceased in 1844, and that the subsequent proceedings should be regarded merely as the formal organization of a division or connexion which in point of fact dated from 1844.

In stating said account, I have of course made all allowances for charges upon the fund, such as the annuity to the widow of Bishop Hedding, &c., and which are assumed by the defendants.

The bad debts, if they are to be taken into the account at all, and not reported as wholly worthless, are to be divided in the same proportions as the rest of the property, whether they are due from the North or from the South; and the same remark is applicable to the newspaper presses, &c., within the bounds of the Southern Church.

Upon the foregoing principles, the account contained in the tabular statement before referred to, and hereto annexed, is settled and adjusted.

JOHN W. NELSON, *Master, &c.*

Account of the property and effects, &c., of the Book Concern, at the city of New York, and the amount of the increase and profits thereof, and the amount of said profits which have been applied to the use of the beneficiaries of said fund, and the numbers and proportions of the said beneficiaries, reported in pursuance of the decretal order of the circuit court of the United States, for the southern district of New York, dated November 26th, 1851.

1. Aggregate value of property, &c., at and immediately before the said division of the church in May, 1845, to wit, on the 1st of January, 1845, (including bad debts) - - - $562,235 76½

Specific property and effects of which said aggregate amount consists:

1. Real estate, four houses and lots, on Crosby street - -	$14,244 33		
Lots on Mulberry street - -	12,215 00		
Buildings on do., with steam engine, water works, and apparatus - - - - -	76,581 65		
			102,040 98
2. Printing office, presses, type, and furniture - - -	18,681 92		
Stereotype plates - -	54,508 85		
Steel plate engravings, wood and metal cuts - - -	4,500 00		
			77,690 77
3. Foundry material, tools, and furniture - - - - -			936 25
4. Bindery presses, tools, and materials - - - -			6,246 07
5. Notes and book accounts, viz.,			
Notes - - -	54,825 11		
Book accounts - -	179,578 39		
			234,403 50
Deduct bad debts			58,751 18
			$175,652 32
6. Merchandise, books, &c. -	$74,650 62¼		
Sheet stock - - -	53,933 41¾		
Paper, furniture in office -	4,198 38		
			132,782 42½
7. Cash in hand - - - - -			1,033 19
Available funds - - - - -			27,000 00
8. Periodicals, amount due on periodical books -			43,450 00
			$578,702 48½
Liabilities, concern owes on book account -			4,596 24
Total - - -			$574,106 24½
Deduct 20 per cent. for bad debts - -			46,887 70
Nett profits for the year - - -			$44,231 76

Annual profits for 1845, down to 1st January, 1852.

For the year 1845, to January 1,		1846	-	-	$32,913 47
"	1846,	"	1847	- -	23,462 80
"	1847,	"	1848	- -	26,900 76
"	1848,	"	1849	- -	37,583 52
"	1849,	"	1850	- -	17,733 50
"	1850,	"	1851	- -	47,911 42
"	1851,	"	1852	- -	68,656 14

Aggregate value of the property, &c., of the said Book Concern on the 1st January, 1852 - -		$608,413 54½
Specific property and effects of which said amount consists:		
1. Real estate, four houses and lots in Crosby street - -	$12,000 00	
Building and lots in Mulberry and Mott streets - - -	118,568 63	
House and lot in Havana -	708 75	
		$131,277 38
2. Cash. Public stocks - -	49,500 00	
Cash account in bank deficient on account of loans - - -	6,183 79	
		43,316 21
3. Periodicals. Amount due on periodicals - - -	- -	10,000 00
4. Merchandise. Sunday school books, books of the general catalogue, sheet stock, &c. - -	- -	179,531 72½
5. Printing office. Presses, type, furniture, and white paper -	29,277 08	
Stereotype plates - - -	63,668 60	
Steel plate engravings, and wood and metal cuts - - -	5,142 37	
		98,088 05
6. Foundry. Materials, tools, and furniture - - -	- -	589 77
7. Bindery. Presses, tools, and materials - - - -	- -	8,957 22
8. Notes and book accounts, viz:		
Notes - - - -	54,503 00	
Book accounts - - -	183,073 77	
	192,577 38	
Deduct 20 per cent. for bad debts	38,515 47	
		154,061 91
		625,822 26
Concern owes on book account -	- -	17,408 72
		608,413 54½
Deduct the bad debts, &c., as proved by the witness, fol. 101, &c. - - - -	- -	$68,251 18
Total - - -	- -	$596,086 55
Increase of the value of said Book Concern since 1845 - -	- -	$46,171 78½

The amounts of annual profits since 1845 paid to the northern beneficiaries, and the times when paid:

In 1846,	14,000 + 4,350	paid bishops	- -	$18,350 00
1847,	11,000 + 4,350	" -	- -	15,350 00
1848,	12,300 + 4,750	" -	- -	17,050 00
1849,	6,100 + 4,750	" -	- -	10,850 00
1850,	19,700 + 4,750	" -	- -	24,450 00
1851,	22,200 + 4,750	" -	- -	26,950 00

CIRCUIT COURT OF UNITED STATES.

WILLIAM A. SMITH, a citizen of Virginia, L. P. Green, a citizen of Tennessee, and others, complainants,
and
GEORGE LANE and Levi Scott, citizens of New York, and others, defendants.

Examination of Levi Scott and George Lane, defendants, who, being called and duly sworn, testified, deposed, and said as follows, in each other's presence.

I have a statement, in print, of the Methodist Book Concern, on the first of January, 1845. The paper produced, and marked exhibit A, is the printed statement presented by the agents of the Book [Concern] to the Annual Conferences, as of the first of January, 1845, as to which some corrections should be made, as follows: Stereotype plates should be corrected to read fifty-four thousand five hundred and eight dollars and $\frac{8}{100}$; sheet stock should be corrected to read fifty-three thousand nine hundred and thirty-three dollars and 41 cents and three-fourths; bound books, seventy-four thousand six hundred and fifty-three dollars and sixty-two and three-fourth cents. These corrections were never presented to our conferences. These valuations, which I have corrected of the stereotype plates, were made as a valuation at the time the exhibit was prepared, but which I now understand was too high. As to the sheet stock, in 1840, the list of prices was made out to govern the sales of said stock to the Western concern. This list of prices, by some oversight, was adopted as the list of prices in the inventory for the exhibit, and has been the list of prices according to which every inventory since has been made; than list of prices is also higher than the list at which we now sell sheet stock to the Western concern, and also to the southern agents. The corrected list is made out, by giving price of paper, press work, at master's prices, and cost of folding. The bound stock, or the list of prices thereof, by taking off the price of binding, reducing the sheet stock of that item to the standard of corrected prices of sheet stock, and then adding the binding. The list of prices in the exh[illegible] presented to the Conferences was continued in all the exhibits afterwards submitted to the Conferences, and upon which the dividends were declared. We have never sold sheet stock at as

3039.

low a rate as is now expressed in the correction to this item in the exhibit. For a few years, I can not say how many, we sold sheet stock to the Western agents at the prices expressed in the exhibit; the Western agents became dissatisfied, and a new scale was adopted. Our sales to others than the Western agents were usually at a higher rate than the sales to the Western agents; we sell, however, very little to others. I think that items for stereotype plates, bound books, and sheet stock, in the exhibit for the first of January, 1844, marked exhibit B, were entered at the same rate of valuation, and the same scale of prices, as in the exhibit of 1845, without the corrections. The profits stated in the exhibits have respect to the past, and not to the coming year. The nett profits stated in the exhibits of 1845 were the amount on which the dividends were divided to the Conferences. These profits, stated in the exhibit of 1845, were divided to the Conferences during the year 1844, or so much of them as were paid out. On the first of January, 1845, the items "cash in hand, $1,033 19, and available funds, $27,000 00," was in fact cash in hand. The rate of dividend for the year 1844 was $1,000 per Conference. The number of Conferences amongst which the dividends for the year 1844 were divided, was thirty-three, but two, as it appears, drew only $800 each; but for what reason I do not know, unless they made a mistake as to the amount they were entitled to draw for. The usage, up to the division of the two branches of the church, was to divide the property equally amongst the Conferences, without regard to numbers of individuals in each Conference.

On the 1st January, 1845, we had no investments in stocks or bonds, that I am aware of; we presented an exhibit for the year 1846; I believe I have a copy of it. The paper marked exhibit C is a copy of such exhibit. The dividends for the year 1845 were paid to all the Conferences—Southern as well as Northern—and those dividends would be payable out of the nett profits reported in 1846. The rate per Conference, for the year 1845, was $800. The amount of capital stock, as reported for the year 1846, was six hundred [and] thirty-two thousand seven hundred and sixteen dollars $\frac{7}{100}$, but needing correction, as the exhibit of the preceding year. I presume these exhibits were made, intended, and understood to be true; I was not at that time connected with the Book Concern.

The defendant, Lane, being present and interrogated, says, that these exhibits were made and understood to be true, but they were not as exact as if they had been settling an adversary account.

Mr. Scott resumed—

It appears from the books that the items in the exhibit, 1846, "cash in hand and available funds," was all cash. We had not at that time any stocks, that I am aware of.

I made a general statement, in 1847, on the 1st Jan. of that year. The paper produced, and marked exhibit D, is a copy of such statement. Dividends were not made to the Southern Conferences for the year 1846. There was paid in dividend to the Northern Conferences fourteen

thousand dollars, being $600 to each Conference, for the year 1846. The report from some of the Southern Conferences not being received in New York till the year 1846, the payments of their dividends for the year 1845 came into the accounts of the year 1846, and are embraced in exhibit D. In this year, 1846, we purchased $10,000 of N. York State stock; $6,000 purchased April 22d, 1846; $5,000 at 98, and $1,000 at 96, of 5 per cent. stock; $1,000 matured, and was paid in July, 1848; $4,000 were sold July 5th, 1850, at 106½, less ¼ per cent. commission. May 14th, 1846, we purchase[d] $4,000 and $1,000, at 101½, 7 per cent. stocks, redeemable in 1848; and $3,000, at 97, 5 per cent. stock, redeemable in 1850.

The nett profits for the year 1846, as reported January 1, 1847, were nineteen thousand one hundred and twelve $\frac{80}{100}$ dollars; four thousand three hundred [and] fifty paid to Bishops, and charged to profit and loss, making twenty-three thousand four hundred sixty-two $\frac{89}{100}$. The payments were to the Bishops, including those of the M. Episcopal Church, exclusive of those South. It appears by the books, that the debit of the profit and loss account for this year, exclusive of what book-keepers call fictitious accounts, such as expense, salaries, and the like, was, debit $1,177 43, and credit $480 54.

1847. An exhibit of the Book Concern was presented to the Conferences on the 1st of January, 1848; the paper produced, and marked exhibit E, is a copy of the exhibit. It appears, by the books, that the accounts of repairs and charges against the building, from 1840 to this time, had been added in to the value of the real estate, and, at the date of this exhibit, they were deducted from the estimated value of the real estate, as not having added to its value. No dividends for the year 1847 were paid to any but the Northern Conferences. The amount paid to the Northern Conferences for that year was $11,000; $500 to each Conference. The amount of nett profits reported was twenty-two thousand five hundred and fifty $\frac{50}{100}$ dollars; four thousand three hundred and fifty paid Bishops of the M. E. Church, making total nett profits twenty-six thousand nine hundred $\frac{00}{100}$ dollars. We purchased in that year $2,500 of Ohio State stock, at 99¼, ¼ per cent. commission, payable in 1850; also $5,000 State of Kentucky bonds, at per cent., at par, payable after 1860.

It appears, by the books, that the debit of profit and loss account, exclusive of what book-keepers call fictitious accounts, such as expenses, salaries, and the like, was $3,186 49, and credit $962 63.

1848. There was an exhibit, made on the 1st January, 1849, for the year 1848; the paper produced, and marked exhibit F, is a copy of such exhibit.

The amount of the nett profits, as reported for the year 1848, was thirty-two thousand eight hundred and thirty-three $\frac{50}{100}$ dollars. Four thousand seven hundred and fifty dollars paid to the Bishops of the M. E. Church, and charged to profit and loss, making a total of nett profits of thirty-seven thousand five hundred and eighty-three $\frac{50}{100}$ dollars. No payments were made to the Bishops South; no dividends of the

profits were paid to the Conferences South. The amount paid to the Conferences North was twelve thousand three hundred dollars, making $400 to each; this includes the payment of one Conference dividend for the previous year, which came in this year, and some larger allowance to some Conference, which was corrected subsequently.

We purchased this year, July 5, 1848, $2,500, at par of Ohio Canal six per cent. stock, redeemable 1860; also State of Ohio Canal stock, six per cent., 2d of August, 1848, $10,000 at par, redeemable 1860; less ¼ per cent. commission. Also $6,000 of Treasury notes, with $1,500 interest.

There is charged to the account of profit and loss a bad debt to D. S. King, of $4,650 11. He was a bookseller, who dealt largely with the concern, and when he failed the concern lost the above amount. There is an item for a counsel fee of $250, in relation to questions which the General Conference of 1848 directed the opinion of counsel to be taken, in relation to the powers of the agents to arbitrate the difficulty between the Church North and South. It appears by the books that the debit of profit and loss account, exclusive of what book keepers call fictitious accounts, such as expenses, salaries, and the like, is $5,797 98, including the above two items; and the credit, $1,160 98.

There is also charged in expense account, $325 paid to Dr. Bond, an allowance on account of salary allowed by General Conference of 1848. It was for services rendered in 1843. The amount which he claimed had been withheld from him in the fixing of his compensation by the committee in 1843, which amount he claimed was due him according to contract when he commenced. I understand from Mr. Lane, that the salaries were fixed yearly by the committee, and the salary of Dr. Bond for that year was fixed by the committee at $1,550, and his rent at $75 less than the year previous. Dr. Bond complained that he ought to have allowed him a salary of $1,800, which had been before allowed, and which he claimed to be entitled to by contract, and also the amount of rent which had previously been allowed him; he claimed that he had not presented it to the conference of 1844, on account of the press of business; he presented it to the conference of 1848, and it was allowed.

1849. A statement was made in the month of January, 1850, for the year 1849. The paper produced, and marked G, is a copy of such statement. There was purchased this year $1,000 of State of Ohio six per cent. canal, January 23, 1849, at par, ¼ per cent. commission, redeemable 1856. Also was purchased, $1,500 seven city bond. The amount of the nett profits for the year 1849 was twelve thousand nine hundred and eighty-three $\frac{5}{100}$; four thousand seven hundred and fifty dollars paid to the Bishops of the Methodist Episcopal Church, making a total of profits of seventeen thousand seven hundred and thirty-three $\frac{5}{100}$. It appears by the books that the sum of $702 24 was paid for the expenses of the delegates to the General Conference in 1848, of the Methodist Episcopal Church North. It appears by the books, the debit of profit and loss account, exclusive of what book keepers

call fictitious accounts, such as expenses, salaries, and the like, is $5,498 49, and the credit $175. The amount of bad debts charged in this account of profit and loss is $2,940 49, also $400 to counsel for retaining fees in this controversy.

1850. An exhibit was made in January 1st, 1851. The paper produced, and marked exhibit H, is a copy of such statement. There was purhased in 1850, $21,000 in New York and Erie Railroad, Hudson Railroad bonds, for which we paid for some.

The amount of profits for the year 1850 was forty-seven thousand five hundred and sixty-one $\frac{45}{100}$; paid the Bishops North, four thousand seven hundred and fifty dollars—making a total of fifty-one thousand three hundred and eleven $\frac{45}{100}$ dollars. No conference dividends were paid to the Church South. Nineteen thousand seven hundred dollars were paid to the northern conferences, being six hundred dollars to each conference.

It appears by the books that the debit of profit and loss, exclusive of what book-keepers call fictitious accounts, such as expenses, and salaries, and the like, is $2,289 14, and the credit $5,629 90.

1851. The paper produced, and marked exhibit I, is the statement for the year 1851. We purchased (in) 1851, $4,000 New York and Erie Railroad bonds; the amount of the profits for the year 1851 is $63,906 14, and the amount paid to Bishops $4,750, making a total of $68,656 14. No dividends were paid to the Conferences South. There were twenty-two thousand two hundred dollars paid to the Northern Conferences, making $800 to each conference. This exhibit shows the property of the Book Concern, at its date, subject to the same remarks as to the rate and scale of prices which I made on the first exhibit.

It appears by the books that the debit of profit and loss account, exclusive of what book-keepers call fictitious account, such as expenses, salaries, and the like, is $9,388 $\frac{00}{100}$, and the credit $3,670 $\frac{86}{100}$, in which debit is included $5,000 counsel fees in this controversy, and $100 00 in expense accounts.

In the year 1845, $500 was due to Bishop Soule, of the Methodist Episcopal Church South, from the year 1845.

Adjourned to 13th April, 1852.

April 13th, parties and counsel present.

Examination of Mr. Scott, continued.

The valuations of the stereotype plates, bound books, and sheet stock, contained in exhibit of January 1st, 1852, were about that time, and it took some time to make the inventory, [we knowing at the time we made it that the scale of prices for bound and sheet stock was too high, but thinking it would be best to make out the exhibit for the conferences according to the usual scale of prices, and also make a corrected inventory, and present both to the court.]

Part in brackets objected to by Mr. Lord.

The scale of prices of sheet stock was a scale of sales' prices of sheet stock to the Western Concern made out in 1840, and adopted by mistake or oversight for the inventories for the exhibits. The scale of prices for bound stock was the usual one employed in the exhibits, and cannot tell on what principles it was made, or when. Sales were made for a few years—I cannot say how many—according to the scale of prices as appears in the exhibits; [but no scale of sales' prices ought to be adopted in an inventory of the property of an establishment, as it includes an estimation for a certain amount of expenses, and also profits.]

Part in brackets objected to by Mr. Lord.

I made out the corrections to the exhibit I, simultaneously in part with the making out of the uncorrected exhibit.

Q. When you made the sale referred to in your previous examination at a lower price than your inventory, when, and of what amount, was that sale?

A. I cannot possibly answer without reference to the books.

Q. In all your exhibits, from January 1st, 1844, to January 1st, 1851, inclusive, were they not accompanied with remarks in which occurred this expression: "The folded and sheet stock at estimated cost?"

A. They were. Minutes of the annual conferences were annually published, at the close of the series of the conferences, by the Book Concern. The series usually closed up to 1846, in the early part of June. The last complete series closed May 14, 1845.

After a certain series of minutes had been issued, they were usually bound up in a volume with conversational praying. The volume for the last period begins with the year 1839, and ends with the year 1845, embracing in the whole 666 pages.

Q. What was the number of the travelling preachers in the minutes published in 1844, and in the minutes published in 1845? Who participated in the profits of the Book Concern through the annual conferences?

A. In 1844, in the M. E. Church North, there were 20 conferences, viz: Troy, Providence, New Hampshire, New England, Pittsburgh, Maine, Black River, Erie, Oneida, Michigan, Rock River, Genesee, North Ohio, Illinois, Ohio, Indiana, Baltimore, Philadelphia, New Jersey, New York. In the M. E. Church South, there were 13 conferences, viz: Kentucky, Missouri, Holstein, Tennessee, North Carolina, Memphis, Virginia, Arkansas, Mississippi, Texas, Alabama, Georgia, South Carolina. In 1845, in the M. E. Church North, there were 22 conferences, viz: the same as the others, with the addition of Iowa and North Indiana. In the M. E. Church South, there were 16 conferences, the same as before, with the addition of the Indian Margin Conference, and one in Texas and Florida. In speaking of the Methodist Church South, I mean those conferences which, in the year 1845, adhered to the Church South. The last conference, held in 1844, was held in New York, commencing June 12, 1844, and they usually lasted about a week. Those minutes of the Annual

Conferences were of the same character as an epitome of the state of the church; and they contain all the members who usually participate in the dividends through the annual conferences. Those members of annual conferences who have not travelled two years are probationers in the travelling connexion, [and have no right, according to the description, to any portion of the proceeds of the Methodist Book Concern.]

Part in brackets objected to as witness's opinion as to the right.

Probationers, when deficient, do sometimes receive amounts of the dividend from the Book Concern; but in case of failure in health, they are not claimants on the fund, nor are their widows, or children, or orphans.

Q. Are not the probationers, when in service and in health, usually paid as the other travelling preachers?

A. I cannot say whether it is usual; I think they sometimes are.

Defendant Lane being here interrogated in the terms of the preceding question, answers as follows:

I cannot refer to an individual case, but it is my impression that they are; that is my understanding of the usage of the Church; it is now 16 years since I have attended the conferences; that is, where there are moneys to be divided among the deficient travelling preachers, no distinction is made between probationers who have rendered service and preachers in full connexion.

Adjourned to 15th, 11 a. m.

April 16.—Parties and counsel present.

Examination of Scott resumed.

Travelling preachers, by the minutes of 1844, were 3,303, including 5 bishops, and 652 probationers, belonging to the Church North; and that the travelling preachers belonging to the Church South were 1,329, including 2 bishops and 290 preachers on trial, or probationers. That, by the minutes of 1845, the travelling preachers of the Conferences North, including 5 bishops and 628 probationers, was 3,410, including, in this number, the New York Conference, begun May 14, 1845, of 287 preachers, including 44 probationers; that the travelling preachers of the Conferences South amounted to 1,421, including 2 bishops and 331 probationers. Taking the New York Conference, commenced 12th June, 1844, instead of the New York Conference begun May 14, 1845, the variation would be 270 preachers, including 4 probationers, instead of 287 preachers, including 44 probationers, as given in the last general enumeration. If the members are taken according to this variation, they would stand thus: The whole number in the Conference North would be 3,393 travelling preachers, including 626 probationers.

April 15.—Parties and counsel present.

Travelling preachers, by the minutes of 1844, were 3;303, including 5 bishops, and 652 probationers, belong to the Church North; and

that the travelling preachers belonging to the Church South were 1,329; includes 2 bishops, and 290 preachers on trial, or probationers. That, by the minutes for 1845, the travelling preachers of the Conferences North, including 5 bishops, [and] 628 probationers, was 3,410, including, in this number, the New York Conference, begun May 14, 1845, of 287 preachers, including 44 probationary; that the travelling preachers of the Conferences South amounted to 1,421, including 2 bishops, and 331 probationers. Taking the New York Conference, commenced 12th Jan., 1844, instead of the New York Conference begun May 14, 1845, the variation would be 270 preachers, including 42 probationers, instead of 287 preachers, including 44 probationers, as given in the last general enumeration. If the numbers are taken according to this variation, then they would stand thus: The whole number in the Conferences North would be 3,393 travelling preachers, including 626 probationers.

Circuit Court of United States.

WILLIAM A. SMITH, a citizen of Virginia, L. P. Green, a citizen of Tennessee, and others,
vs.
GEORGE A. LANE and Levi Scott, *and* of New York, and others. } April 15.

Examination of defendant Scott, in presence of defendant Lane, on the part of defendants.

In exhibit A, there are included in the item called book accounts, demands and accounts due from persons residing within the bounds of the M. E. Church South. There is some other property now belonging to the Book Concern in the South, not within the control of the agents since the division. There are three newspaper printing establishments, namely: "Richmond Christian Advocate," reported to the General Conference of 1844 as worth five thousand eight hundred and eighty-four dollars $\frac{43}{100}$; "The Southern Christian Advocate," reported as above as worth about $5,000; and the "Southwestern Christian Advocate," reported, &c., as worth $9,899\frac{50}{100}$. No proceeds or profits from those establishments have come into the Book Concern since the division. The Committees of Publications having neglected to report to the agents, as required by Discipline, (see Discipline, 1844, page 210, 12mo. edition,) we commenced making out exhibit L, dated Jan. 1, 1852; we did not know that the scale of prices of bound and sheet stock was too high. I assisted in making out the inventory of sheet stock; when I had proceeded as far in the books of the general catalogue as the book called the "Wesley Family," my attention was arrested by the price as found in the inventory of the preceding year, which I was copying; this led to an investigation of the prices, which resulted in the discovery that the list of sales prices of that stock to the Western Book Concern had, by some strange oversight, which

nobody could explain, been accepted, year after year, since 1840, as the list of prices in the inventory. We include in sales prices cost price of paper, master printer's prices, the cost of folding, gathering, and collating, the estimated value of stereotype plates, and a certain proportion of the expenses of the concern. In the exhibits made out to be presented to the conferences from year to year since 1840, the stereotype plates have been given twice; once as included in the sheet stock, and also as a separate item. There was a reduction from the scale of prices of sheet stock ordered by the General Conference of 1844, see Discipline, page 206, § 11, to 50 per cent. on sheet stock from retail prices of sales to the Western Concern, the concern paying the expenses of transportation. What I have said of the errors in the exhibit of 1844 applies to the exhibit of 1845; the same scale was continued. Exhibit A does not, in our judgment, state the real value of the capital stock, it being greatly too high. I would not be willing to take the property and pay for it according to the scale of prices adopted in the exhibit as the basis of the division of the property; and, in my judgment, it would not be just. I would not be willing to take the property and pay cash to the South even according to the lower estimate, of which I have spoken in my direct examination. The whole of the nett profits, as they appear in the exhibits, were not always estimated by the dividends to the conferences, a balance remaining which went into the capital stock. As far as I know, the usage of carrying the balance of profits into the capital stock has existed ever since dividends were first made to the conferences; in other words, it has been the invariable custom, as far as I know. In case of a division of the capital stock, in any succeeding year, all such balances of profits would be included in that capital stock to be divided. In case of a present division of the capital stock, such balances of profits which, from year to year, have gone into the capital stock, would be included in the capital stock to be divided; such balances would appear in enlarged profits each succeeding year, as I understand the course of things would be. In case of a present division of the capital stock, and in case of an allowance to the complainants of their portion of the nett profits as claimed by them, their portion of the balances of profits already spoken of would be allowed to them twice; they would, to a certain extent, according to my understanding of the necessary course of the business.

Q. The complainants claim in the 3d item of their charge their portion of $\$6{,}513\ \frac{47}{100}$ as an undivided balance of profits appearing on exhibit C; would they or not obtain their portion of that sum by a division of the present capital?

A. They would, as I understand the course of business. My answer to that question applies to all the excess of nett profits beyond the dividends to the conferences, if the dividends are made to both North and South. With respect to an item of $\$1{,}156\ \frac{24}{100}$ in the 6th of the complainants' charges, the books show the following entry: February 10th, 1848. Interest received to January 1st, 1848, $1,156 24, credit-

ed to interest account; the balance of interest account has gone into profit and loss account, and swells the item of nett profits of the ensuing year to that amount. We paid $1,200 out of the profits appearing on exhibit C to Bishop Andrew, then one of the bishops of the Church South, provided that $1,200 were not charged to profit and loss. The bishops' salaries are usually paid by drafts, drawn by each individual bishop upon the agents. We did not pay Bishop Soule his salary at the time we paid Bishop Andrew, because he did not draw for it, as I understand it. Neither he, nor any one in his behalf, has drawn for that amount to my knowledge, or applied for it. We have always been ready and willing to pay it, as far as I know. The concern is subject to an annuity of $700 to the widow of Bishop Hedding as long as she lives, it being the interest at 7 per cent. on $10,000 given by Bishop Hedding to the Book Concern charged with such annuity. The series of minutes of the annual conferences closing with the New York Conference was a matter not discretionary with the agents, but ordered by the General Conference of 1840, in these words: "Resolved, that the agents be directed hereafter to publish the minutes immediately after the close of the New York Conference." See Journal General Conference, 1840, page 119. The minutes, according to that resolution, have been published since 1840 until 1846 annually.

Direct examination resumed.

I am not a practical book-keeper. I do not keep the books of the concern. For 1845 the sales of the Concern amounted to $124,17[0] $\frac{99}{100}$. For 1846 to $122,762 $\frac{73}{100}$. For 1847 to $123,587 $\frac{53}{100}$. For 1848 to $125,95[0] $\frac{79}{100}$. For 1849 to $135,945 $\frac{99}{100}$. For 1850 to $202,358 $\frac{37}{100}$.

Q. According to the rate of sales lastly given by you, how long before the stock of merchandise, expressed in exhibit A as Sunday school books—books of the general catalogue, sheet stock, &c., would have been sold out?

A. I cannot answer the question; some books being sold at retail prices; some at 20 per cent.; some at 30 [per cent.;] some at 50 per cent.

Q. Have you, to the best of your knowledge, any of the stock expressed in exhibit A on hand at present?

A. I cannot say, but think we have.

Q. After the stock expressed in exhibit A as merchandise, in which you say the cost of the stereotype plates was included, had been printed, what became of the stereotype plates which had been used in the printing of it?

A. They remained in the possession of the concern as plates, though their estimated value had been twice given in said exhibit.

Q. Was the estimated value given in that exhibit under the title "stereotype plates," an actually estimated value?

A. I cannot say whether it was estimated plate by plate, or by a general estimate supposed to approximate the value.

Q. I find by your exhibit, for the year 1845, exhibit A, that your capital was $641,283 22; and in your exhibit for 1851, exhibit I, your capital is $663,189 62; making an increase, during this period, of $21,906 40. If all the profits not divided had gone into the capital, do you mean to say that the proportion of the South in that increase would pay their share of the profits for the six years?

A. No, sir; but a portion of what they charge as interest on said profits for the six years.

Q. Supposing that by a comparison of the dividends which you have stated to have been paid out, and the profits which in your statements appear to have been made, there should appear to be a surplus of profits on dividends to the extent of upwards of a $105,000, and that your increase of capital appears to be $21,906 40; according to your book-keeping, could that amount of profits have gone into the capital?

A. I suppose it did.

Q. Supposing the dividends to the Church South reported in your examination and exhibits amount to $94,900, and the surplus of your capital for the same years, from 1845 to 1851 inclusive, is but $21,906 40, would a relative payment to the South of dividends in their proportion not vastly exceed their proportion of the $21,906 40?

A. I cannot say without examination.

Q. Are you able to say whether any money was kept separately for Bishop Soule, or whether it remained mixed with the general funds of the concern used in its business?

A. I am not able to say, but suppose it remained mixed with the general funds of the concern.

Adjourned to 3, p. m., 16.

April 16. Parties and counsel present. Examination of Mr. Scott continued.

We have made a corrected copy of the exhibit of January 1st, 1845. The amount of that is $574,106 24. The paper produced and marked A is such corrected exhibit. Such exhibit does not contain the actual cash value, as we understand it; we would not be willing to pay cash for it at those rates. We have approximated a cash value, but we never understood that cash was expected to be paid, and therefore did not think it necessary to reduce it to a strictly cash value. I consider those prices, taken as a whole, as still above the actual cash value. I have corrected the item as to stereotype plates in the last exhibit. I have been in this agency since June, 1848; I think I am acquainted with all the property of the concern and its means of raising money—a general acquaintance. If the proportion of capital in cash, claimed by the complainants in cash, were to be paid, the concern could not do it, and carry on its business. The Richmond Christian Advocate is located at Richmond, Va.; the Southern Christian Advocate at Charleston, S. C.; the Southwestern, as it was then called, at Nashville, Tennessee. There is and was, on the 1st of January, 1845, a branch of the Book Concern at Charleston, S. C. That was included in the exhibit of 1845, not by name, but under the head of

merchandise. We call it Charleston Depository. The value of the Charleston Depository was included in the exhibit of January, 1845, at $9,581 39; that was the stock of the concern. I suppose there were book accounts besides, but I can't answer definitely as to that.

Q. In reference to the claim of the complainants, contained in the 3d of their charges, to their proportion of $6,513 47, being the undivided balance of profits appearing on exhibit A, would it be just to allow that claim to the complainants, and also their pro rata of subsequent profits, and of the present capital?

Objected to: 1st, that it asks the opinion of the witness; and, 2d, it does not apply to any claim in the charges.

A. In my opinion not, for the reason that they have received their dividends for the year to which that amount refers, the year 1845, and that they will receive also in the increased profits arising from the addition of that amount to the capital stock. That amount of $6,513 47, as far as I know, has never been separated from the capital or subsequent profits. We have made an inventory of the present capital, and made corrections of exhibit I. According to these corrections, on the 1st January, 1852, the amount of capital [was] $608,413 54½ cents; it was corrected only in the particulars included under the head of merchandise. The paper produced, and marked exhibit I 1, is such corrected exhibit. Including the printing establishments before mentioned, the increase of the capital stock since the 1st of January, 1845, if my figuring is right, is $41,680 22½. I think that the Southern Advocate is put in this computation at $3,500. All of these papers appear in my computation, but not in the exhibits.

Re-examination of Dr. Scott.

In regard to bound and sheet stock, the exhibits from A to I inclusive, as to the valuation and scale of prices, were made out on the same principles. The account of the depository at Charleston was continued in all the exhibits. The account would differ, but the item was included. We did not reduce that by any reduction of the scale of prices in our recent computation. The 3 printing establishments which I introduce in my computation of the difference of capital between the exhibits A 1 and I 1, are the Richmond Christian Advocate, the Southern Christian Advocate, and the Nashville and Louisville Christian Advocate, formerly called the Southwestern Christian Advocate. Those 3 printing establishments are not in the exhibit I nor 1, in any of the items. Those establishments are in none of the items of exhibit A. They were established before 1845. Those papers were not introduced in any of my corrections to exhibit A. So far as I know, the item of stereotype plates is introduced into all the exhibits from A to I, in addition to the printed stock. Other depositories of the book concern were introduced into the exhibits under the head of merchandise, and my reduction of the scale of prices is not applied to them.

The defendant, Lane, being interrogated on the part of defendants, answers as follows:

I have been an agent of the Book Concern, it will be 16 years next June. I have examined the exhibits from A to I, which have been put in in this case; we were never very particular in ascertaining the exact value of the property; we did not consider it necessary. Our object, however, was to come as near the value as we could. I do not think those exhibits show the actual cash value of those establishments. I do not think the property would be worth in cash to us what they are estimated at. I think the concern could not pay in cash the amount claimed by the South; they could pay a part, and still carry on the business of the concern, but not the whole. I never understood that any funds were invested specifically to meet the claim of the South.

Cross examined.

As to the object of our investments in stocks, begins with the year 1846. We had funds in the bank, for which we were receiving an interest of 4 per cent.; we found that we could invest those funds in stocks and draw a larger interest. The subject of dividends came before us; it was suggested that, as we did not feel at liberty to pay over to the South their claim for dividends, it might be well to invest those funds in stocks; there were objections by some of the preachers to this course; and it was urged that we had better, and were indeed bound to, divide the whole among the northern conferences. This the agents did not see proper to do, and an investment was made, not, however, with special reference of meeting the claims of the South for dividends, but that we might have funds on hand to meet those claims, if it was decided that we must pay them or any other claims against the Book Concern. We had another object in view in making those investments. We had received from Bishop Hedding a donation of $10,000. $5,000 were received at the General Conference in Philadelphia, in 1832, so it would appear; the other $5,000 subsequently, upon which we have paid an interest of 7 per cent. We thought it good economy, as we had the funds on hand, to invest a sufficient amount to meet the interest of that claim.

Q. When, in the remarks subjoined to your statements to the Conferences, exhibits A to H inclusive, you state that certain articles are estimated at what they are believed to be worth in cash, was not that intended to be true by you?

A. Of course it was intended to be true; but, as I have stated before, we were not very particular as to the exact value.

Q. When in those remarks you state that certain stock was estimated at cost, had it not been so estimated?

A. So we understood from those who estimated it.

Examination of Joseph Loughring on the part of the defendants.

I am a printer; have been engaged in that business nearly 30 years. I am now printer for the Methodist Book Concern, and have been so since the death of James Collard, in 1846. I am familiar with the

property of the establishment in the printing department, and a general knowledge of the other departments. The property of the printing establishment consists of presses, type, white, colored, and printed paper, stereotype plates, and the necessary tools and materials for printing; in my expression of printed paper I include sheet stock, to some extent, not bound stock. I have the exhibits before the master from A to I. I think the actual value of the property included in the exhibits is not correctly stated in all respects. I think that the stereotype plates, the lists of sheet and bound stocks especially, are faulty, being overrated, and have long been of that opinion. I cannot state the precise amount of the over-statement, but I should judge the stereotype plate list to be overcharged, as to 1845 exhibit, some $15 to $20,000, perhaps more. In the exhibit 1st Jan., 1852, the stereotype plates, I should judge, are over-estimated some $15,000, not exceeding $15,000. I assisted Dr. Scott in making the corrected estimates; those estimates I think above the cash value. I think the stereotype plates, and sheet and bound stock, would not be worth to the concern in cash what they are estimated at. I came to the opinion that the stereotype plates in those exhibits were over-estimated between the years 1840 and 1844. In the year 1841, Mr. Collard, the printer of the establishment, (I being at that time in the employ of the concern,) being absent from the city several weeks on business, and also in the subsequent years from 1841 to 1846. I, during his absence, took charge. I was thus obliged to look more minutely into the affairs of the office than had been previously necessary, and thus became acquainted with things of which I had before but little knowledge; among others, the valuation of the stereotype plates. I formed my opinion from being obliged to look more minutely at things; and so it gradually forced itself upon my mind. I did not form that opinion, but it came to me gradually in the course of months and years, but with my mind fully settled prior to Jan. 1, 1844. I have lately made an examination of the stereotype plates. I made a thorough examination prior to the General Conference of 1848, being obliged so to do to answer a question of the book committee as to the value of the stereotype plates belonging to the house. I then made out a new valuation, dividing the plates into classes; such valuation made by me I then reported to be, in my opinion, still too high. I have made a more recent examination since January 1, 1852; I examined them by classes. I then examined the plates as before, by classes, and affixed the price given in the corrected inventory of stereotype plates; as a whole, the prices are, in my opinion, high; were meant so to be. The sheet stock and bound books have been greatly over-estimated for a number of years past; this was not known to the concern until Jan., 1852, when it [was] accidentally discovered in making up the inventory for the present year. It was discovered by Dr. Scott, in carrying out the prices of the book called "Wesley Family." The doctor came to me *to me* to ask an explanation of what he deemed to be an error, saying he had called on Brother Teal, the binder, for such explanation, but could

not obtain one. I looked at his list; observed that I thought the prices were those at which Mr. Collard and myself had made out a scale of prices by which to sell sheet stock to the Cincinnati Book Concern, in obedience to an order of the General Conference of 1840; on examination my supposition proved correct, to our great confusion and astonishment. We then made out a new valuation of sheet stock, which has been brought before the master as our corrected inventory of sheet stock. In making out the inventory of printing office material it is estimated every year at what it is believed to be worth to the Book Concern. I do not include sheet or bound stock, or stereotype plates, in the term printing office materials.

Cross examined.

Q. Being shown the exhibits from A to I inclusive, were they not all printed under your inspection?

A. They were; since 1846, when I took charge.

Q. You say that you made a particular examination of the stereotype plates in 1848 to answer a question of the Book Committee; were the statements usually submitted to committees before publication?

A. The exhibits of the Book Concern are not so submitted, neither had I reference to them in my previous answer, but to a question of the Book Committee, preparing for their quadrennial report to the General Conference of 1848.

Q. Nor the result of your examination of the stereotype plates, adopted by the committee, nor the book agents, were carried into any of the exhibits?

A. I know not that it was, never having learned what was done with my report of such valuation.

Q. Did you, previous to June 1, 1845, make any exact valuation of the stereotype plates, taking into view—1st, the actual cost when new, and the time and manner of their having been used, so as to make an exact estimate of items?

A. No, sir.

Q. Do you know upon what basis of valuation the items stereotype plates are introduced into exhibit A, Jan. 1, 1845?

A. I have a partial knowledge for the inventory of each year; the stereotype plates cast during the year, which had not been printed from, were charged at their full cost—the concern making its own plates; those which had been printed from, at 50 per cent. discount from their cost price—the old plates at a slight reduction for wear, by a per centage taken off from the amount of the inventory for the previous year. The elements entering into the cost of stereotype plates, by the Book Concern, were copyrights, if any; illustrations from the work, if any, and the setting up of the type, and making of the stereotype plates, at master printers' and master stereotypers' prices, together with an allowance for agents' and editors' salaries, clerk hire, and the various incidental expenses of the house, which were apportioned upon the various departments of the business of the Book Concern, the binding included; that is all.

Q. Was there any allowance of rent or interest on the amount of capital employed in the Book Concern generally?

A. To the best of my knowledge, so far as the printing office, bindery, and stereotype foundry are concerned, none—those being presumed to be covered, so far as rent and fuel are concerned, by the masters' prices; a small allowance is made for rent of store, booking rooms, &c.; nothing for interest.

Q. Had the plates generally been well used, and cared for in their use, when printed from?

A. With all ordinary care.

Q. At what rate was the sheet stock introduced into the exhibit, January 1, 1845?

A. A partial valuation for the stereotype plates, the printing at masters' prices, and the at cash prices, an allowance for insurance, clerk hire, fuel, agents' and editors' salaries, wear and tear, and all other things, so far as we know, which go to make cost, but nothing more than what we believed entered into the composition of cost.

Q. Is the sheet stock in exhibit A, January 1, 1845, stated at its *evil* price, or at a scale of selling prices?

A. At a scale of selling prices furnished to sell stock to Cincinnati, which I believed to be the cost of the book as nearly as we can ascertain, taking care to have all the elements of cost, and nothing more.

Q. Was the rate introduced into exhibit A, for the sheet stock, the then selling price to Cincinnati?

A. No, sir.

Q. What did it differ from it?

A. At the General Conference for 1844 the western book agents had been tired of cost prices, as they were termed, and petitioned General Conference to change the rates of purchase of sheet stock from such cost prices to 50 per cent. discount from the retail prices, the New York house paying, I believe, the transportation, and assuming risks.

Q. Can you state how much that fell below the rate of selling cost prices which *was* then in use?

A. I cannot.

Q. What proportion of your sheet stock was sold to the Cincinnati Concern?

A. I have no knowledge.

Q. How did the price, of what was sold to that concern, compare with the price at which you sold to others?

A. I have no knowledge.

Q. When did you first make an exact valuation of the sheet stock for the purpose of giving it in evidence on this inquiry?

A. I never made such valuation for the purpose of giving it in evidence, but solely to correct the great blunder into which we had unhappily fallen; it was after New Year's, but I can't say the exact day.

Mr. Lane, the defendant, further states:

The remarks made at the close of the exhibits were made previously to the discovery of the inaccuracy in the estimated cost of sheet and

bound stock, and were supposed to be as nearly correct as could be ascertained; but after the discovery of that error, it became evident that the estimate was much too high, so that my answers relating to that particular would not be correct in relation to the cash value of the property of said estimate.

Q. Is it now your understanding that a discovery has been made in regard to the estimated cost of the sheet stock?

A. It is my opinion that a discovery has been made of an inaccuracy in the estimated value of the sheet stock.

Adjourned to 17th, at 12 m.

April 17, 1852. Parties and counsel present.

John B. Edwards, called on the part of the defendants, and being duly sworn, deposes and says as follows:

I am the book-keeper of the Methodist Book Concern; have been employed as such for 12 years the 20th of this month, I think. I have seen exhibit A, which is the one presented to the conference, Jan. 1, 1845; there were some bad and uncollectable debts embraced in that exhibit; those debts are mostly due from the preachers. The amount of bad debts embraced in this exhibit is $58,751 18. From preachers and others South, connected with the conferences afterwards forming the Church South, was due the sum of $35,711 98. From the M. E. Church North, from preachers and others within the bounds of the annual conferences of that church, there was due the sum of $23,039 20. There was, in addition to the above sums, embraced in same exhibit A, other sums that have proved uncollectable, namely: a debt against the Southwestern Christian Advocate of $6,211 34; against the Richmond Christian Advocate the sum of $2,452 39. Those debts were not collected, because the General Conference of 1840 made an appropriation to the Southwestern Christian Advocate of $7,000; and the General Conference of 1844 made an appropriation to the Richmond Christian Advocate of $2,500. According to that order, the $9,500 above named were charged to stock account, in November, 1845, up to which time they had drawn upon the establishment for that amount in goods and cash, and the amount charged to them as a debit. Journal of the General Conference of 1840, page 114; and the Journal of the General Conference of 1844, page 126. If there were any excess of balance of profits, over the dividends paid out of it, contained in exhibit A, it went into stock, and would appear in the exhibit of the ensuing year as part of the capital stock.

Cross examined.

Q. Would your last answer, that the profits not divided to the conferences went into the capital stock, apply to all the exhibits down to 1852 inclusive?

A. The profits, over and above the dividends paid out, would *they* appear, if no counter entries were made, in the stock account. The stock account which I now refer to is according to that entered in the ledger, page 114, and also in page 1 of the previous ledger, (a copy of

the stock accounts from 1845 to 1852 is produced, and marked exhibit J.) The charges to the Southwestern and Richmond Christian Advocate appear in exhibit A, under the item Book Accounts; and the trial balance on the 1st of January, 1845, being produced, shows the facts.

Q. What efforts were made by the Book Concern to collect the debts South, owing in 1845, of which you have spoken?

A. All laudable efforts, without resort to law; and sometimes pressed them so hard they did not like it. The accounts are kept by conferences; previous to the session of each Annual Conference the accounts against the preachers and others within the bounds of each conference are made out; and in most cases one of the book agents, or a person authorized by them, attends each Annual Conference with the accounts, and when the preachers are present at the conference have a private interview with each one indebted, if practicable; if a preacher is not present at the conference, his account is sent to him, with a request to pay the same. In a part of the conferences south, after the division in 1845, such measures were adopted to collect the debts. I went myself to the Holstein Conference twice. I went to the one at Knoxville, and to Athens, Tennessee; and Mr. Tippet, one of the former book agents, attended quite a number of the conferences in the Church South, but how many I cannot state. When an agent did not go to the conference in person, the accounts were uniformly sent out, with a request that a committee should be appointed by each conference to settle such accounts. In a certain class of the accounts, which were not of very long standing, I was successful in obtaining payments when I went to the said conferences after the division; I received no refusals on the ground of the division. Not much, if any, was collected on accounts of long standing; the accounts which I collected are not included in my statement above named of the bad debts. None of the debts in my statement of the bad debts above are introduced in the profit and loss account. The paper produced, and marked exhibit K, is a true copy of the profit and loss account contained in the ledger L, pages 13 and 14; the debit closing the profit and loss account for each year, is the amount represented in the exhibit as the profits for the year. It appears by the sales books of the concern, by an entry under date of January 11, 1844, prior to the conference of 1844, of the sheet stock, to wit: 200 Harmonists were sold to the western agents, at Cincinnati, at 42 per copy; 258 Hymns, at 40 cents a copy; and that by a sale to the same agency, under date of July 19, 1844, similar stock, to wit, 500 Harmonists, were sold at 50 per cent. discount from the nominal price of 90 cents; and 182 Hymns at 50 per cent. discount from the nominal price of 84 cents. The two bills in which those sales are represented are taken from the sales books, and are marked exhibit L.

Adjourned to Thursday, April 29, 11 a. m.

A.

Exhibit of the Methodist Book Concern, January 1, 1845.

Assets.

1. Real estate—four houses and lots in Crosby street - - -		$13,244 33	
Lots in Mulberry street cost	$12,215 00		
Buildings on do., with steam-engine, water wks., and warming apparatus -	76,581 65		
		88,796 65	
			102,040 98
2. Printing office—presses, type, and furniture - - - -		18,681 92	
Stereotype plates - - -		70,408 05	
Steel plate engravings, wood and metal cuts - - - - -		4,500 00	
			93,589 97
3. Foundry—materials, tools, and furniture - - - -		- -	936 25
4. Bindery—presses, tools, and materials		- -	6,246 07
5. Notes and book accounts, viz:			
In notes - -	54,825 11		
Book accounts -	179,578 39		
		234,403 50	
Deduct twenty per cent. for bad debts, exchange, and transportation -		46,880 70	
			187,522 80
6. Merchandise—Sunday school books -		17,110 85	
Bound books of the general catalogue, including Charleston and Pittsburgh depositories - - -		64,971 87	
Sheet stock - - - -		96,697 17	
Paper, furniture in offices, &c. -		5,280 31	
			184,060 20
7. Cash—cash in hand - -		1,033 19	
Available funds - - -		27,000 00	
			28,033 19
8. Periodicals—amount due on periodical books - - - - -		- -	43,450 00
			$645,879 46

Liabilities.

The concern owes on book accounts - - -			4,596 24
Nett amount of capital stock estimated at		-	$641,283 22
The nett profits of the past year amount to		$44,231 76	

3048.

Remarks.

The bound books of the general catalogue are reckoned at a discount of fifty per cent. from the retail price, and the Sunday school books at twenty per cent; the folded and sheet stock at estimated cost. The stock in printing office, bindery, &c., at what it is believed to be worth in cash.

B.

Exhibit of the Methodist Book Concern, January 1, 1844.

Assets.

1. Real estate—four houses and lease of lots in Crosby street		$12,000 00	
Lots in Mulberry street cost	$12,215 00		
Buildings on do., with steam engine, water-works and warming appartus	$76,581 65		
		88,796 65	
			$100,796 65
2. Printing office, presses, type, and furniture		20,096 21	
Stereotype plates		84,652 67	
Steel plate engravings, wood and metal cuts		4,480 00	
			109,228 88
3. Foundry, materials, tools, and furniture			877 50
4. Bindery, presses, tools, and materials			6,050 61
5. Notes and book accounts, viz:			
In notes	64,530 09		
In book accounts	164,883 11		
		229,413 20	
Deduct twenty per cent. for bad debts, exchange, and transportation		45,882 64	
			183,530 56
6. Merchandise, Sunday school books		18,591 97	
Bound books of the general catalogue, including Charleston and Pittsburgh depositories		59,198 67	
Sheet stock		110,530 49	
Paper furniture in offices, &c		4,090 51	
			192,411 64
7. Cash account, in drafts, in bank for collection		14,650 13	
In cash on hand		722 74	
			15,372 87

8. Periodicals—amount due on the books of the Christian Advocate and Journal from subscribers - - - - - -		$42,000 00
Total amount of assets - - - - -		650,268 71
Liabilities.		
The concern owes on book accounts - - -		3,683 13
Nett amount of capital stock estimated at - -		$646,585 58
The nett profits of the past year amount to	$44,727 94	

Remarks.

The bound books of the general catalogue are reckoned at a discount of fifty per cent. from the retail price, and the Sunday school books at twenty per cent. The folded and sheet stock at estimated cost. The stock in printing office, bindery, &c., at what it is believed to be worth in cash.

C.

Exhibit of the Methodist Book Concern, January 1, 1845.

Assets.

1. Real estate—four houses and lots in Crosby street - - - -	$13,728 52	
Lots in Mulberry street, with buildings, &c. - - - - -	102,239 16	
		$115,967 68
2. Cash—cash in hand - -	5,239 83	
Available funds - - -	25,000 00	
		30,239 83
3. Periodicals—amount due on periodical books - - - -		43,450 00
4. Merchandise—Sunday school books, books of the general catalogue sheet, stock, &c., &c. - - -		186,495 64
5. Printing office—presses, type, and furniture - - - -	18,822 06	
Stereotype plates - - -	73,128 85	
Steel plate engravings, wood and metal cuts - - - -	5,160 00	
		97,110 91
6. Foundry—materials, tools, & furniture		804 35
7. Bindery—presses, tools, and materials		6,633 72
8. Notes and book accounts, viz:		

In notes -	- $66,044 72		
Book accounts -	- 141,939 06		
		$207,983 79	
Deduct twenty per cent. for bad debts and exchange - - - - -		41,596 75	
			$166,387 04
			647,089 17

Liabilities.

The concern owes on book accounts - - -		14,372 47
Nett amount of capital stock estimated at -	-	$632,716 70

The nett profits of the past year amount to $32,913 47.

Remarks.

The bound books of the general catalogue are reckoned at a discount of fifty per cent. from the retail price, and the Sunday school books at twenty per cent. The folded and sheet stock at estimated cost. The stock in printing office, bindery, &c., at what it is believed to be worth in cash.

D.

Exhibit of the Methodist Book Concern, January 1, 1847.

Assets.

1. Real estate—four houses and lots in Crosby street - - - - -		$13,973 05	
Lots in Mulberry street, with buildings, &c. - - - - - - - -		111,313 52	
			$125,286 57
2. Cash—cash in hand - - - -		11,344 70	
New York State stock - - -		10,000 00	
			21,344 70
3. Periodicals—amount due on periodical books - - - - - -	-	-	43,452 64
4. Merchandise—Sunday school books, books of the general catalogue, sheet stock, &c , &c. - - - - -	-	-	185,831 36
5. Printing office—presses, type, and furniture, - - - - - - -		19,685 10	
Stereotype plates - - - -		72,472 45	
Steel plate engravings, wood and metal cuts - - - - - - -		5,400 00	
			97,557 55

2, Cash—Cash in bank and in hand -		$23,364 06	
New York and Ohio State stock, &c. -		32,143 33	
Kentucky do - - - - - -		5,150 00	
			$60,650 36
3. Periodicals—amount due on periodical books - - - - - - -		- -	43,452 00
4. Merchandise—Sunday school books, books of the general catalogue, sheet stock, &c., &c. - - - - -		- -	180,179 37
5. Printing office—presses, type, furniture, and white paper - - - -		23,816 28	
Stereotype plates - - - -		64,484 48	
Steel plate engravings, wood and metal cuts - - - - - - - -		5,327 00	
			93,627 76
6. Foundry—materials, tools, and furniture - - - - - - - -		- -	818 31
7. Bindery—presses, tools, and materials -		- -	7,643 05
8. Notes and book accounts, viz:			
In notes - - -	$62,525 66		
Book account - -	114,096 34		
		176,622 00	
Deduct twenty per cent. for bad debts		35,324 40	
			141,297 60
			$643,217 36

Liabilities.

The concern owes, on book accounts - - -	$8,403 94
Nett amount of capital stock estimated at - - -	634,813 42

The nett profits of the past year amount to	$32,833 52
Paid conference dividends during the year	12,300 00

Remarks.

The bound books of the general catalogue are reckoned at a discount of fifty per cent. from the retail price, and the Sunday school books at twenty per cent. The folded and sheet stock at estimated cost. The stock in printing offices, bindery, &c., at what it is believed to be worth in cash.

G.

Exhibit of the Methodist Book Concern, January 1, 1850.

NEW YORK, January 1, 1850.

To the Annual Conferences of the Methodist Episcopal Church.

DEAR BRETHREN: We herewith submit a brief exhibit of the affairs of the Book Concern, for the year ending December 31, 1849.

G. LANE, and
L. SCOTT.

Assets.

1. Real estate. 4 houses & lots in Crosby street	$12,000 00		
Lots in Mulberry st., with buildings, &c.	103,573 88		
			$115,573 88
2. Cash. Cash in bank and in hand	20,206 53		
New York & Ohio State stock, &c.	34,790 15		
Kentucky do.	5,150 00		
			60,146 68
3. Periodicals. Amount due on periodical books			10,000 00
4. Merchandise. Sunday school books, books of the general catalogue, sheet stock, &c., &c.			186,249 17
5. Printing office. Presses, type, furniture, and white paper	28,028 42		
Stereotype plates	60,837 17		
Steel plate engravings, wood, and metal cuts	5,214 40		
			94,079 99
6. Foundry. Materials, tools, and furniture			720 31
7. Bindery. Presses, tools, and materials			7,910 36
8. Notes and book accounts, viz:			
In notes 52,321 99			
Book accounts 124,445 48			
	176,767 47		
Deduct 20 per cent. for bad debts	35,353 49		
			141,413 98
			$616,094 37

Liabilities.

The concern owes on book accounts	7,525 54
Nett amount of capital stock estimated at	$608,568 83

The nett profits of the past year amount to	$12,983 50
Paid Conference dividends during the year	6,100 00

Remarks.

The bound books of the General Catalogue are reckoned at a discount of fifty per cent. from the retail price, and the Sunday school books at twenty per cent.; the folded and sheet stock at estimated cost; the stock in printing office, bindery, &c., at what it is believed to be worth in cash.

H.

Exhibit of the Methodist Book Concern, January 1, 1851.

NEW YORK, *January* 1, 1851.

To the Annual Conference of the Methodist Episcopal Church.

DEAR BRETHREN: We herewith submit a brief exhibit of the affairs of the Book Concern for the year ending December 31, 1850.

G. LANE,
And L. SCOTT,

Assets.

1. Real estate—four houses and lots in Crosby street	$12,000 00	
Lots in Mulberry street, with buildings, &c.	103,573 88	
		$115,573 88
2. Cash—cash in bank and in hand	15,659 88	
New York and Ohio State stock, &c.	45,795 15	
Kentucky do.	5,150 00	
		66,605 03
3. Periodicals—amount due on periodical books		10,000 00
4. Merchandise—Sunday school books, books of the general catalogue, sheet stock, &c., &c.		191,681 43
5. Printing office—presses, type, furniture, and white paper	30,095 94	
Stereotype plates	57,703 46	
Steel plate engravings, wood and metal cuts	5,107 76	
		92,907 16
6. Foundry—materials, tools, and furniture		618 94
7 Bindery—presses, tools, and materials		8,868 04
Notes and book accounts, viz:		
In notes $54,148 58		
Book accounts 139,565 25		
	193,713 83	
Deduct 20 per cent. for bad debts	38,742 76	
		154,971 07
		$641,225 55

Libiiities.

The concern owes on book accounts	14,819 35

The nett amount of capital stock estimated at - - - - - - -		$626,406 20
The nett profits of the year amount to - -		$42,161 42
Received from Swormstedt and Power amount paid by them for conference dividends - - -		5,400 00
Total amount of profits - - - - -		47,561 42
Paid conference dividends the past year	19,700 00	
Total amount of sales in 1850 - - - -		200,215 71
Do. Do. 1849 - - - -		134,847 25
Increase the past year over year before last - -		$65,368 46

Remarks.

The bound books of the General Catalogue are reckoned at a discount of fifty per cent. from the retail price, and the Sunday school books at 20 cent.; the folded and sheet stock at estimated cost; the stock in printing office, bindery, &c., at what it is believed to be worth in cash.

I.

Exhibit of the Methodist Book Concern, January 1, 1852.

NEW YORK, *January* 1, 1852.

To the Annual Conference of the Methodist Episcopal Church.

DEAR BRETHREN: We herewith submit a brief exhibit of the affairs of the Book Concern for the year ending December 31, 1851.

G. LANE,
And L. SCOTT.

Assets.

1. Real estate—four houses and lots in Crosby street - - - - -	$12,000 00	
Buildings and lots in Mulberry and Mott streets - - - - -	118,568 63	
House and lot in Havana - - -	708 75	
		$131,277 38
2. Cash—public stocks - - - -	49,500 00	
Cash account in bank, deficient on account of loans - - - - -	6,183 79	
		43,316 21
3. Periodicals—amount due on periodicals - - - - - - -		10,000 00
4. Merchandise—Sunday school books, books of the general catalogue, sheet stock, &c., &c. - - - - -		234,307 80

5. Printing office—presses, type, furniture, and white paper - - -	$29,277 08	
Stereotype plates - - - -	63,668 60	
Steel plate engravings, and wood and metal cuts - - - - -	5,142 37	
		98,088 05
6. Foundry—materials, tools, and furniture - - - - - - -	- -	589 77
7. Bindery—presses, tools, and materials	- -	8,957 22
8. Notes and book accounts, viz:		
In notes - - - $54,503 61		
Book accounts - - 138,073 77		
	192,577 38	
Deduct twenty per cent. for bad debts -	38,515 47	
		154,061 91
		680,598 34

Liabilities.

The concern owns, on book accounts -	- -	17,408 72
Nett amount of capital stock estimated at	- -	663,189 62
The nett profits of the past year amount to	63,906 14	
Paid conference dividends the past year -	22,200 00	
Total amount of sales in 1850 - -	- -	200,215 71
Do. do 1851 - -	- -	189,343 57
Decrease the past year - - - -	- -	$10,872 14

Corrected exhibit, January 1, 1852.

I 1. *Exhibit of the Methodist Book Concern, January* 1, 1852.

NEW YORK, *January* 1, 1852.

To the Annual Conference of the Methodist Episcopal Church.

DEAR BRETHREN: We herewith submit a brief exhibit of the affairs of the Book Concern for the year ending December 31, 1851.

G. LANE, &
L. SCOTT.

Assets.

1. Real estate:		
Four houses and lots in Crosby street -	$12,000 00	
Buildings and lots in Mulberry and Mott streets - - - -	118,568 63	
House and lot in Havana - -	708 75	
		$131,277 38

2. Cash:		
Public stocks - - - -	49,500 00	
Cash account in bank, deficient on account of loans - - -	6,183 79	
		43,316 21
3. Periodicals:		
Amount due on periodicals - -	- -	10,000 00
4. Merchandise:		
Sunday school books, books of the general catalogue, sheet stock, &c., &c. [$179,531 72½]	- -	234,307 80
5. Printing office:		
Presses, type, furniture, and white paper - - - - -	29,277 08	
Stereotype plates - - -	63,668 60	
Steel plate engravings, and wood and metal cuts - - - -	5,142 37	
		98,088 05
6. Foundery:		
Materials, tools, and furniture - -	- -	589 77
7. Bindery:		
Presses, tools, and materials - -	- -	8,957 22
8. Notes and book accounts, viz:		
In notes - - - 54,503 61		
Book accounts - - 138,073 77		
	192,577 38	
Deduct twenty per cent. for bad debts	38,515 47	
		154,061 91
		680,598 34

Liabilities.

The concern owes on book accounts -	- -	17,408 72
Nett amount of capital stock, estimated at [$608,413 54½.]	- -	$663,189 62
The nett profits of the past year amount to	- -	$63,906 14
Paid conference dividends the past year	- -	22,200 00
Total amount of sales in 1850 -	200,215 71	
Do. do. 1851 -	189,343 57	
Decrease the past year - - - -		10,872 14

Corrected exhibit for January 1, 1845.

A 1. *Exhibit of Methodist Book Concern, January 1st*, 1845.

Assets.

1. Real estate—four lots in Crosby street	$13,244 33	
Lots in Mulberry street, cost	12,215 00	
Buildings on - - -	76,581 65—88,796 65	
		$102,040 98

2. Printing office—presses, type, and furniture		$18,681 92	
Stereotype plates		54,508 85	
Steel plate engravings, wood and metal cuts		4,500 00	
			$77,690 77
3. Foundry—materials, tools, and furniture			936 25
4. Bindery—presses, tools, and materials			6,246 07
5. Notes and book accounts:			
Notes	54,825 11		
Book accounts	179,578 39		
		234,403 50	
Deduct 20 per cent. for bad debts, &c.		46,880 70	
			187,522 80
6. Merchandise—books, &c.		74,650 62¾	
Sheet stock		53,933 41¾	
White paper		4,198 38	
			132,782 42½
7. Cash—cash in hand		1,033 19	
Available funds		27,000 00	
			28,033 19
8. Periodicals—amount due on Periodical books			43,450 00
			$578,702 48½
Liabilities.			
Concern owes, on book account			4,596 24
Nett amount of capital stock estimated at			$574,106 24½
The nett profits of the year		$44,231 76	

A 1, April 16, 1852.

J. W. NELSON, *Master.*

NEW YORK, *January* 12, 1844.

Messrs. Wright & Swormstedt,

Bought of Lane & Sandford.

95 4to Bibles, No. 6,290, 89 do. do., No. 3, 2	$453 50
5[illegible] sets Watson's Sermons, 1.20; 50 sets M. E. Church, 1.48	134 00
200 Harmonists, pat. and round 42	84 00
258 Hymns, 12mo., 40	103 20
6 Boxes	9 00
(Copied from sales book R.)	$783 70

3017.

NEW YORK, *July* 19, 1844.

Messrs. Swormstedt & Mitchell,

Bought of Lane & Tippett.

150 Bibles, 4to, No. 5, 4.43; 200 do. do., No. 4.93 -	$1,650 50
150 sets Benson's Comt., N. T., 5.28; 100 Bibles, 8vo., 1.21 - - - - - - - - - -	913 00
500 Bibles, 12mo., 60¼; 12,000 pages of tracts, 12 -	313 25
300 Clarke's Theology, 90; 200 Clarke's Comt., O. T., 10.56 - - - - - - - - - -	2,382 00
100 Dr. Coke, 65; 500 Harmonist Pat., 90 - - - -	515 00
200 Harmonists md. 90; 182 Hymns, 12mo., 84 - -	332 88
	6,106 63
50 p. c. - - - - - - - - - -	3,053 31
	3,053 32
Folding - - - - - - - - - -	103 83
6 Boxes - - - - - - - - - -	37 50
(Copied from sales book S.)	$3,194 65

A. H. BROWN.

Stock.

1844.		
Dec. 31	Profit and loss—reduction on stereotype plates	$20,000 00
"	Conference dividends	28,536 06
	Balance forw'd	688,163 92
		$736,699 98
1845.		
Dec. 31	Conference dividends	$37,263 94
"	Southwestern Christian Advocate, amount allowed by General Conference, 1840	7,000 00
"	Richmond Christian Advocate, do.	2,500 00
	Balance forw'd	674,313 45
		$721,077 39
1846.		
Dec. 31	Conference dividends	$23,600 00
	Balance forw'd	669,826 25
		$693,426 25
1847.		
Dec. 31	Conference dividends	$11,000 00
"	Building acc't—reduction for sundry bills of repairs, taxes, &c.	6,439 21
"	Houses in Crosby street, do. do.	1,992 24
"	Merchandise—reduction on plates	8,796 82
	Balance forw'd	664,148 74
		$692,377 01
1848.		
Dec. 31	Sundries, amount allowed by General Conference	$5,544 44
"	Conference dividends	12,300 00
	Balance forw'd	679,137 82
		$696,982 26
1849.		
Dec. 31	Conference dividends	$6,100 00
"	Periodical accounts—reduction on old debts	33,452 00
"	Merchandise—reduction on plates and merchandise	8,647 00
	Balance forw'd	643,922 32
		$692,121 32
1850.		
Dec. 31	Conference dividends	$19,700 00
"	Merchandise—reduction plates, &c.	6,634 78
	Balance forw'd	665,148 96
		$691,483 74
1851.		
Dec. 31	Conference dividends	$22,200 00
	State stock, amount disposed of	5,150 00
	Balance forw'd	701,705 10
		$729,055 10

Stock.

1844.		
Jan. 1	Capital stock	$692,468 22
Dec. 31	Profit and loss	44,231 76
		$736,699 98
1845.		
Jan. 1	Balance capital stock	$688,163 92
Dec. 31	Profit and loss	32,913 47
		$721,077 39
1846.		
Jan. 1	Capital stock	$674,313 45
Dec. 31	Profit and loss	19,112 80
		$693,426 25
1847.		
Jan. 1	Capital stock	$669,826 25
Dec. 31	Profit and loss	22,550 76
		$692,377 01
1848.		
Jan. 1	Capital stock	$664,148 74
Dec. 31	Profit and loss	32,833 52
		$696,982 26
1849.		
Jan. 1	Capital stock	$679,137 82
Dec. 31	Profit and loss	12,983 50
		$692,121 32
1850.		
Jan. 1	Capital stock	$643,922 32
Dec. 31	Profit and loss	47,561 42
		$691,483 74
1851.		
Jan. 1	Capital stock	$665,148 96
Dec. 31	Profit and loss	63,906 14
		$729,055 10

Jan. 1, 1852, capital stock $701,705 10; 20 per cent. from this amount for bad debts, viz: $38,515 47, leaves balance, same as printed exhibit, $663,189 63, difference one cent.

Profit and Loss.

1844.		
Feb. 7	John Chain	$41 78
April 12	Bishop Hedding, 1 quarter's annuity	175 00
April 30	Sundries	483 59
June 8	Sundries	154 12
June 10	Dr. Capers $400, E. F. Sevier $100, Bishop Soule $350	860 00
June 21	Bishop Hedding, 1 quarter's annuity	175 00
Aug. 14	Sundries	30 57
Aug. 22	Bishop Soule	350 00
Sept. 10	Sundries	95 69
Nov. 30	Bishop Hedding $175, Campbell $18 21	133 21
		2,558 96
	Salary and wages account	32,858 37
	Transportation account	694 77
	Discount account	872 43
	Expense account	6,777 63
	Insurance account	280 00
	Postage account	835 47
	Stock account	44,231 76
		$89,109 39
1845.		
Mar. 31	Sundries	351 39
Apr. 26	Sundries	61 98
May 22	Bishop Soule	500 00
June 20	Bishop Hamline $500, Lockhart $15 26	515 26
July 29	Sundries	88 40
Aug. 30	Sundries, B. R., Ond. and N. O. Conferences	1,280 63
Sept. 8	Sundries	131 23
Oct. 14	Sundries	118 34
Nov. 28	Sundries, Virginia Conference	71 13
Dec. 30	Gering's note	17 32
		3,135 68
	Expense account	7,309 03
	Salary and wages	41,799 25
	Transportation account	537 18
	Discount account	363 49
	Copyright account	11 50
	Insurance account	989 12
	Postage account	683 79
	Stock account	32,913 47
		$87,742 51
1846.		
Apr. 14	Methodist Conference depository	128 48
May 1	Bishop Hedding, 2 quarters' annuity	350 00
May 21	Parsons & Co. failed	231 10
June 9	J. H. Taylor	130 65
July 28	Sundries	69 06
Sept. 18	Wm. James failed	204 00
Nov. 21	Sundries	64 14
		1,177 43
	Salary and wages account	47,636 85
	Transportation account	1,886 25
	Discount account	481 61

Profit and Loss.

1844.		
Feb. 7	Sundries	$63 25
Sept. 27	Sundries	32 00
Dec. 23	Sundries	32 00
"	Stock reduction on stereotype plates	20,000 00
		20,127 25
	Delegate account	355 85
	Publishing fund	9 25
	Merchandise	47,055 66
	Interest	4,416 01
	Periodicals	17,145 37
		$89,109 39
1845.		
July 9	N. Smith	2 00
July 30	Zion's Herald	747 82
Dec. 20	Frazee's note	181 00
		930 82
	Interest account	4,552 37
	Delegate account	6 00
	Periodical account	25,153 93
	Merchandise account	57,099 39
		$87,742 51
1846.		
Nov. 12	Sundry old accounts paid	480 54
		480 54
	Interest account	4,783 31
	Periodical account	9,216 01

Profit and Loss—Continued.

	Expense account	$8,013 42
	Insurance account	1,717 18
	Postage account	452 25
	Stock account	19,112 80
		$80,477 79
1847.		
Jan. 27	Sundries	16 35
Feb. 4	Bishop Hedding, 3 quarters' annuity	525 00
Mar. 24	Do. 1 do.	175 00
June 30	N. Howe	162 26
July 9	Bishop Hedding $175, cash $11 92	186 92
Aug. 9	Sundries	137 76
Sept. 6	J. Bean	64 10
Oct. 21	Bishop Hedding $175, Bishop Hamline $600, cash $90 44	865 44
Nov. 12	Sundries	444 30
Dec. 17	Sundries, Virginia Conference	609 36
		3,186 49
	Salary and wages account	43,468 19
	Expense account	10,004 68
	Insurance account	1,159 85
	Postage account	555 68
	Transportation account	1,385 02
	Discount account	507 73
	Stock account	22,550 76
		$82,818 40

	Merchandise account	$65,997 93
		$80,477 79
1847. Dec. 24	Cash from sundries	962 63
		962 63
	Interest account	4,268 48
	Periodical account	12,365 72
	Merchandise account	65,221 57
		$82,818 40

J. BENJAMIN EDWARDS,
Chief Clerk of the Methodist Book Concern.

NEW YORK, *April* 21, 1852.

Circuit court of the United States, for the southern district of New York.

WILLIAM A. SMITH, Alexander L. P. Green, and others,
ag.
GEORGE LANE and Levi Scott, and others.

Exceptions to the report of John W. Nelson, clerk, &c., on the matters referred to him by the decree of November 26, 1851.

First, (as to the proportion of the interests of the parties.) The complainants except to the said report, that the said clerk hath declared the principle of the proportion between the parties to be that of the number of the travelling preachers in the minutes of 1844, whereas he should have reported, that the number of travelling preachers should be those in the minutes of 1845, namely, 3,410 preachers in the Conferences of the Methodist Episcopal Church North, and 1,421 preachers in the Conferences of the Methodist Episcopal Church South.

And also that the clerk hath not reported, nor specified, any actual number of such preachers, nor any actual numerical proportions for the apportionment of the funds or its income, interest, or proceeds.

Second exception, (as to the amount and value of the property at the date of the division between the two branches of the Methodist Episcopal Church.) The complainants except that the clerk has reported the value of the property of the Book Concern on the 1st January, 1845, to be five hundred and sixty-two thousand two hundred and thirty-five dollars seventy-six and a half cents, ($562,235 76½) whereas he ought to have reported such value to be six hundred and forty-one thousand two hundred and eighty-three dollars twenty-two cents, (641,283 22,) and at all events a much larger value than is reported by him. And that on this subject he erred, especially in the following particulars, namely:

Third exception, (on the same topic.) That the clerk has reported the value of the stereotype plates included in such valuation at $54,825 11, whereas he ought to have reported such value to be $[illegible]408 05.

Fourth exception, (on the same topic.) That the clerk has reported the value of the sheet stock part of the said property at $53,933 41¾, whereas he ought to have reported the same at $96,697 17.

Fifth exception. That the clerk has reported the amount to be deducted on account of bad debts, included in and forming part of said property, at $58,751 18, whereas he ought to have reported the amount to be deducted for bad debts to be $43,450 00.

Sixth exception, (as to the mode of ascertaining the amount of the annual interest, increase, or income, to which the plaintiffs and those

whom they represent are entitled.) The clerk hath declared the principle to be the number of preachers in the minutes of 1844, instead of those in the minutes of 1845; but both hath not reported any exact amounts or sums as yearly appertaining to the complainants, or those whom the represent.

Seventh exception, (as to the amounts of yearly profits chargeable as payments to the northern conferences.) That the clerk hath not reported the payment of $250, as a counsel fee, charged as paid in the year 1848, as chargeable to the beneficiaries of the Church North; whereas he ought to have reported the same as a charge or payment to them.

Eighth exception, (on same topic.) That the clerk hath not reported the payment of $702,24, charged in 1849 as paid to the delegates to the General Conference as a payment chargeable to the beneficiaries of the Church North, whereas he ought to have reported the same as a charge or payment to them.

Ninth exception, (on the same topic.) That the clerk hath made a like error or omission as to $400, charged as retaining fees to the defendants' counsel in this suit, paid in the year 1849.

Tenth exception, (on the same topic.) That the clerk hath made a like error or omission as to $5,100, charged as counsel fees paid to the defendants' counsel in the year 1851.

Eleventh exception, (as to the yearly sums payable to the plaintiffs.) That the clerk has not stated what amount was due to the plaintiffs and those whom they represent at any yearly sum or amount whatever, whereas he ought to have stated the same on the following principle, namely, ascertaining the proportions of the capital appertaining to those beneficiaries represented by the Church North and by the Church South at the time of the division in 1845, he ought to have stated the interest on the capital appertaining to the latter at the rate of seven per cent. per annum, at the end of the following year 1846, and so on as to each successive year, up to the date of the master's report; and also interest on such annual amounts or annuities as were due up to the date of the master's report.

Twelfth exception, (on the same topic as an alternative principle.) The clerk should have ascertained the proportions of capital as before, and applying that proportion to the total nett profits of the year 1847, should have ascertained the plaintiffs' proportion of the profits of that year, and he then should have taken the said plaintiffs' proportion of capital and of profits, as together constituting so much of the plaintiffs' funds in the defendants' hands at the end of that year; and he should for the succeeding year have allowed to the plaintiffs such proportion of the total nett profits of that year as the plaintiffs' said aggregate capital bore to the whole capital employed during that year, and the master should have continued such mode of accumulating the capital to show the plaintiffs' interest to the end of the account.

Thirteenth exception, (as to division.) That the clerk hath reported that the bad debts as well as the rest of the property are to be divided